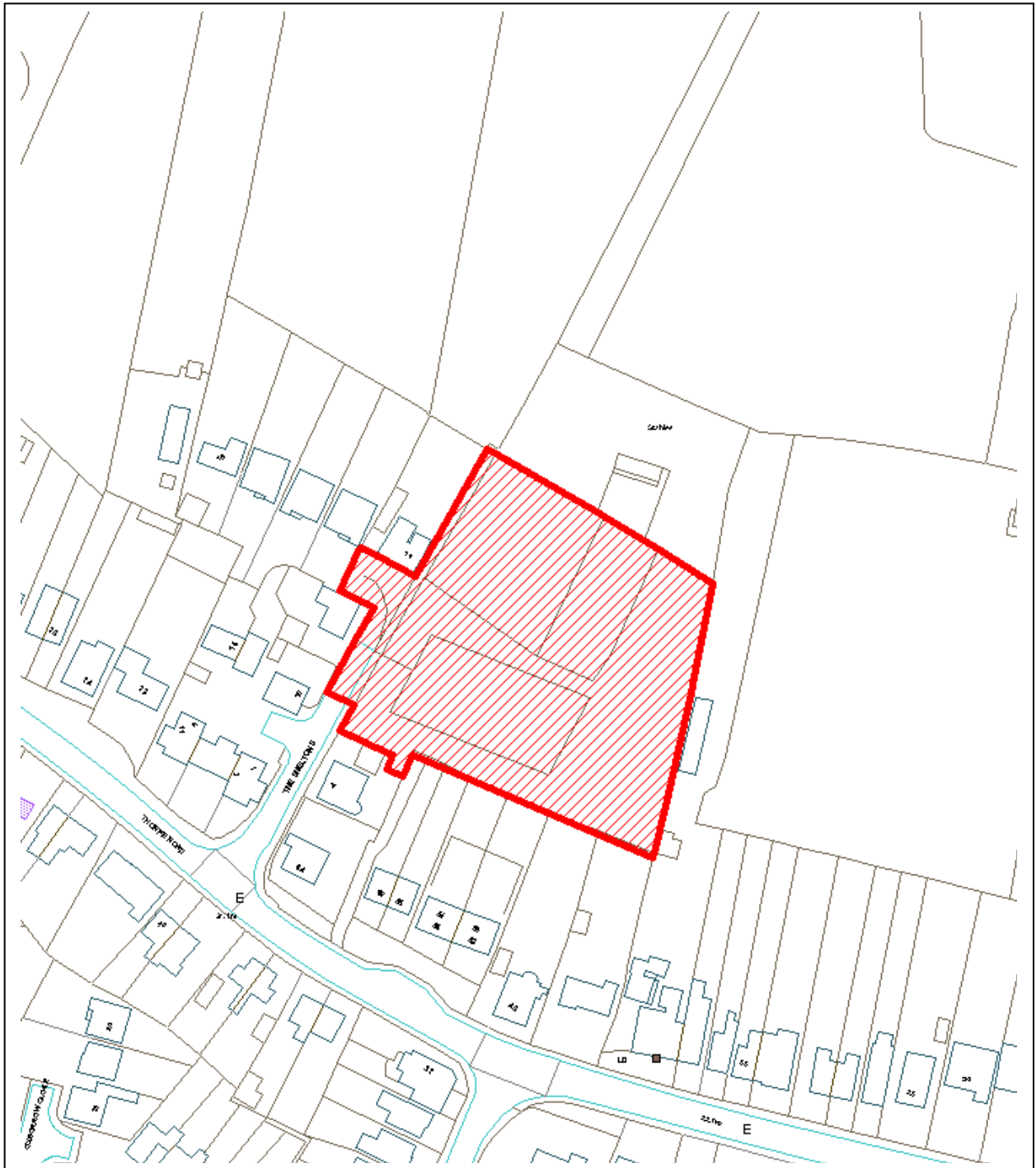


PLANNING COMMITTEE

19 AUGUST 2014

REPORT OF THE HEAD OF PLANNING

**A.1 PLANNING APPLICATION - 14/00610/OUT - LAND AT THE SHELTONS KIRBY CROSS, FRINTON ON SEA, CO13 0LX,**



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<b>Application:</b>	14/00610/OUT	<b>Town / Parish:</b> Frinton & Walton Town Council
<b>Applicant:</b>	Hazelwood UK Ltd	
<b>Address:</b>	Land at The Sheltons Kirby Cross Frinton On Sea CO13 0LX	
<b>Development:</b>	Outline planning permission with all matters reserved for the residential development to create 9 detached dwellings with associated garaging and parking.	

## 1. Executive Summary

- 1.1 The application site lies outside of, but abutting, the defined settlement development boundary of Kirby Cross as set out in the Tendring District Local Plan (2007); and Tendring District Local Plan Proposed Submission Draft (2012). Policies within these plans seek to restrict development to within the settlement development boundaries.
- 1.2 Outside of these boundaries Policy QL1 of the Tendring District Local Plan (2007) and Policy SD5 of the Tendring District Local Plan Proposed Submission Draft (2012) states that permission is to be refused for new residential development subject to specified exceptions.
- 1.3 The National Planning Policy Framework however sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 1.4 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF and as a result the proposed development cannot be refused solely on the basis that a site is outside the development boundary.
- 1.5 Paragraph 14 of the NPPF sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 1.6 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight.
- 1.7 Officers conclude that the proposed development would satisfy the 3 dimensions of 'sustainable development' whilst also being able to achieve a development that would comply with Policies QL9, QL10 and QL11 of the Tendring District Local Plan (2007) as well as Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (2012).

### **Recommendation: Approve Outline**

That the Head of Planning (or equivalent authorised officer) be authorised to grant outline planning permission for the development subject to:-

- a) Within 3 months of the date of the Committee's resolution to approve, the completion of a

legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters

- Public Open Space Contribution Provision.

b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).

**(i) Conditions:**

1. Details of the appearance, landscaping, layout, access and scale, (hereinafter called "the reserved matters")
2. Application for approval of the reserved matters
3. The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters.
4. Samples of the materials
5. Hard and soft landscaping including Tree Report
6. All hard and soft landscaping implementation
7. Landscaping - Five year clause
8. As requested by the Highway Authority
9. Boundary treatments
10. Details of Refuse storage/collection areas
11. Permeable surfacing
12. Scheme to provide renewable energy and energy and water efficiency technologies to be used
13. Biodiversity enhancement provision

c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse outline planning permission in the event that such legal agreement has not been completed within the period of 3 months, as the requirements necessary to make the development acceptable in planning terms had not been secured through S106 planning obligation, contrary to saved policy COM6 of the Tendring District Local Plan (2007) and draft policy PEO22 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014).

## **2. Planning Policy**

### National Policy

National Planning Policy Framework (2012)

### Local Plan Policy

*Tendring District Local Plan 2007*

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG14 Side Isolation

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN2 Local Green Gaps

EN6 Biodiversity

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

*Tendring District Local Plan: Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014)*

SD1 Presumption in Favour of Sustainable Development

SD2 Urban Settlements

SD5 Managing Growth

SD7 Securing Facilities and Infrastructure

SD6 Strategic Green Gaps

SD8 Transport and Accessibility

SD9 Design of New Development

SD10 Sustainable Construction

PEO3 Housing Density

PEO4 Standards for New Housing

PEO22 Green Infrastructure in New Residential Development

PLA4 Nature Conservation and Geo-Diversity

PLA5 The Countryside Landscape

*Local Planning Guidance*

**3. Relevant Planning History**

02/02365/FUL	Stables	Refused	26.02.2003
12/00243/OUT	Outline application for housing development comprising of 15 no. mixed market and affordable housing.	Refused	26.06.2012 Appeal dismissed 29.05.2013 (Ref. APP/P1560/A/12/2189641).
12/00931/FUL	New detached 5 bedroom dwelling.		09.01.2013 Appeal submitted against Non-Determination. Appeal dismissed 03.06.2013 (Ref. APP/P1560/A/12/2189735/NWF).

**4. Consultations**

- TDC Public Experience (Environmental Health) – There are no known contaminated land issues – no comments to make.
- TDC Public Experience – Request Public Open Space Contributions (see appraisal section below)
- ECC Highways Dept – The Highway Authority raises no objection subject to:-
  1. Prior to the commencement of the proposed development, the proposed means of access from The Sheltons shall be provided in precise accord with the details shown in Drawing numbered 1208-12 Revision A.
  2. No unbound materials shall be used in the surface treatment of any of the proposed vehicular accesses within 6m of the highway boundary.
  3. Prior to the proposed access from The Sheltons being brought into use, vehicular visibility splays of 17m by 2.4m by 17m as measured along, from and along the nearside edge of the footpath, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm.
  4. Prior to the occupation of any of the proposed dwellings, each vehicular access shall be constructed to a maximum width of 3.7m and shall be provided with an appropriate dropped kerb connection to the carriageway to the specifications of the Highway Authority.
  5. Prior to the proposed accesses being brought into use, a 1.5m. x 1.5m. pedestrian visibility splay, relative to the highway boundary, shall be provided on both sides of that access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm. These splays must not form part of the vehicular surface of the access.
  6. All off street parking shall be in precise accord with the details contained within the current Parking Standards.

7. Any garage provided with its vehicular door facing the highway or proposed highway, shall be sited a minimum of 6m from the highway boundary
  8. Prior to commencement of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.
  9. Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.
  10. The carriageway(s) of the proposed estate road(s) shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling, prior to occupation has a properly consolidated and surfaced carriageway and footway between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any up-stands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and paths in front of each dwelling shall be completed with the final surfacing within twelve months from the first occupation of such dwelling.
  11. Prior to commencement of the proposed development, details of the provision for storage of bicycles, of a design which shall be approved in writing with the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.
  12. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
    - i. the parking of vehicles of site operatives and visitors
    - ii. loading and unloading of plant and materials
    - iii. storage of plant and materials used in constructing the development
    - iv. wheel washing facilities
- ECC Education Services – No comments received
  - Environment Agency – Outside their remit to provide comments.
  - Anglian Water – No comments received
  - Essex Bridleways Association – No comments received
  - Ramblers Association – No comments received
  - Sustrans – Advisory comments received.

## 5. **Representations**

- 5.1 The Town Council has recommended refusal of the application for the following reasons:

- Would be an overdevelopment of the site
- Site is outside the village envelope and represents green wedge which should not be developed
- Agricultural land should be protected
- Loss of amenity to neighbouring properties
- Concern expressed about potential traffic problems and already overstretched local infrastructure

5.2 15 letters of representation have been received in objection to the proposal. The comments are summarised below:

- Application needs to be determined in accordance with 2007 Local Plan policies.
- Development contrary to 2007 Local Plan policies as outside built-up area boundary and within Local Green Gap.
- Previous application 12/00243/OUT refused on this basis.
- Site previously rejected for inclusion in emerging Local Plan on the grounds that the site would erode the character of the open countryside beyond and there is more suitable land elsewhere.
- Vehicular access concerns.
- Access and turning head on sharp bend which serves shared private drive to 5 properties.
- No agreement reached on the use of the private driveway.
- Turning head and access within a few feet of existing dwellings.
- Residential amenity/safety concerns from traffic and pollution, noise, disruption and light.
- New access will cross existing public footpath.
- Lack of available public infrastructure/amenities such as doctors, school spaces, post office.
- Development of site will result in removal of a number of trees.
- Concern over existing underground utilities and capacity to supply the development.
- Impact on existing properties during construction.
- Previous application 12/00243/OUT refused on highway grounds.
- 2 previous applications made to develop the site and both dismissed on appeal.
- Parking on The Sheltons already difficult.
- Delivery vehicles already have difficulty in manoeuvring within The Sheltons.
- Overlooking concern from Plot 9.
- Site no within built-up area boundary of emerging Local Plan.
- Application site is an important mature landscape buffer between existing development and countryside.
- Loss of views.
- Devalue of property.
- Concerns that development of site may become 15 if this application approved.
- Public safety concerns over users of the public footpath.
- Liability concerns of residents over the future maintenance of the private drive.
- Plans are misleading and makes The Sheltons look like it has a double track road rather than a single track driveway.
- Concern over flooding of neighbouring land.

5.3 Cllr R J Bucke (Ward member for Holland and Kirby) has commented upon the application, and his comments are summarised below:

- Site lies outside the village settlement boundary, as defined by the former and developing Local Plans.
- Site represents an important component part of the green wedge between Kirby Cross and Kirby le Soken.
- Site situated alongside PROW footpath 29, which clearly serves to further define and link Kirby Cross with Kirby le Soken via the green wedge.
- Development of the site, being not part of the former (brownfield) garage site, is backland behind existing dwellings fronting The Sheltons and Thorpe Road.
- Access to the development site would present danger to other residents of The Sheltons, particularly numbers 19 and 21 on the very narrow corner outside and opposite the development site.

#### 5.4 Kirby Residents Association – Objects for the following reasons:-

- When existing development at The Sheltons took place this had to be restricted to the brown field site left vacant by the previous garage site.
- Current site is horse pasture and stabling and was not part of the site and intended to be left as green area.
- On the site plan are stables which do not exist, although there are stables on the land on which planning is applied for.
- During the past 13 years some 190 dwellings have been built in Kirby Cross and all of them in the first few hundred yards of Thorpe Road.
- This is more than enough development and the increase in traffic movements has been noticeable.
- Pressure on local medical and other facilities has been keenly felt.
- This is a green field site and should remain as so.
- This is the third application to build on this site and the previous applications have been refused.

## 6. **Assessment**

### 6.1 The main planning considerations are:

- Site Context
- Proposal
- Planning History
- Principle of Development
- Character and Appearance
- Neighbouring Amenity
- Highway Considerations
- Biodiversity
- Other Material Considerations (Including Section 106 Obligations)
- Other Issues



## **Site Context**

- 6.2 The application site is a broadly square area of approximately 0.51 hectares lying to the north of Thorpe Road. It is predominately laid to grass but contains a small manege and three timber outbuildings in its southern half. The western boundary abuts a public footpath running northwards from Thorpe Road, initially on the eastern side of the access road into The Sheltons, a small 21st century residential estate. North of the access road the footpath continues northwards between No.10 The Sheltons and the site. The site's southern boundary adjoins the side garden of No.4 The Sheltons and the back gardens of several dwellings fronting Thorpe Road itself. The eastern boundary is a mature hedge being part of the western boundary to the back garden of a further Thorpe Road property. The northern boundary continues the line of the northern boundary of The Sheltons estate and similarly looks onto open land used for horse grazing. There is a stable block immediately north of the site.
- 6.3 The site measures approximately 78 metres along its southern boundary, and 58 metres along its northern boundary, and 74 metres along its western boundary with the public footpath. This equates to approx. 0.51 hectares.
- 6.4 The application site is located outside, but abutting, the defined settlement boundary of Kirby Cross, as depicted on the Policies Map of the Tendring District Local Plan (2007), and Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014).
- 6.5 The application site is also located within the Local Green Gap as noted on the Policies Map of the Tendring District Local Plan (2007), but has been removed from this designation within the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014).

## **Proposal**

- 6.6 The current application seeks outline consent with all matters reserved for the construction of 9 detached dwellings, with associated garaging and parking.
- 6.7 The applicant has indicated that whilst all matters are reserved for later consideration, an indicative drawing has been submitted to indicate how development could be achieved within the application site. The indicative drawing shows vehicular access off The Sheltons with 9 residential properties situated around an internal loop road.
- 6.8 These properties are indicated as accommodating a minimum of 4 bedrooms each, with each property having over 100 square metres of private amenity space.
- 6.9 It is suggested that there would be sufficient scope to provide substantial planting around the perimeter of the site and within the central landscaped area and the western and northern boundaries of the site which are currently open to the wider countryside beyond.

## **Planning History**

- 6.10 The most recent and relevant previous planning application relates to the outline residential development of the site (LPA ref. 12/00243/OUT) and subsequent dismissed appeal (PINS ref. APP/P1560/A/12/2189641).
- 6.11 That application was in outline form with all matters reserved but was accompanied by a layout plan indicating 15 dwellings would be accommodated on the site. The decision of the Planning Inspectorate to dismiss the appeal forms a material planning consideration in the assessment of this current application.

6.12 The outline application was refused planning permission by the Council for the following reasons:

- The site lies outside the settlement boundary of Kirby Cross and therefore development is unacceptable as a matter of principle.
- Development would harm the appearance and essential open character of the countryside and village setting, and erode the Kirby Cross Local Green Gap.
- The layout would result in the loss of amenity to the occupants of No.10 The Sheltons and internally between the dwellings proposed in the new development.
- Adverse impact on mature hedgerow on eastern boundary of the site due to proximity of development.
- Parking standards were not considered to have been met.
- Vehicle access considered to be inadequate to connect the new development with the existing highway.
- Lack of financial contribution towards public open space.

6.13 Following the refusal of this application the matter was referred to the Planning Inspectorate and subsequently the appeal was dismissed. In arriving at the conclusion the Inspector made the following statements:

- The proposal is contrary to policy QL1 of the 2007 Local Plan but the Council cannot currently demonstrate a five-year housing land supply and therefore due to the sustainable location of the proposal 'close to public transport and other services', the Inspector concluded that the site was in a 'reasonably sustainable location' and therefore 'this attract weight in support of the proposal in the light of the Framework's presumption in favour of sustainable development'.
- Although the proposal was considered to 'substantially reduce the contribution that the site at present makes to the openness of the immediate area...the extent of these effects would, however, be dependent of the layout of the proposal...such matters are for consideration at reserved matters stage'. The Inspector did not consider this concern 'to be sufficient to warrant dismissal of the appeal'.
- The Inspector concurred with the views of the Council that the indicative scheme submitted could cause some concerns in relation to the possibility of loss of amenity, overlooking, parking provision and the layout of the junction between the highway and the site but that these concerns could be addressed at reserved matters stage. The Inspector was however unable to 'conclude that such a layout could be achieved with 15 dwellings'. The Inspector nevertheless determined that there was 'no reason to doubt that the site could accommodate a layout of mixed market and affordable housing, satisfactorily addressing the above matters and therefore conclude this to be so'.
- The original or a certified copy of the signed Unilateral Undertaking (to secure public open space contributions) was not presented to the Inspector through the appeal proceedings nor was there any provision for payment of the monitoring fee in relation to the financial contribution required under policy COM6 of the 2007 Local Plan. This conflict with Local Plan Saved Policy COM6 resulted in the appeal being dismissed.

## **Principle of Development**

- 6.14 The main issues for consideration are:
- whether the site would be suitable for housing having regard to the principles of sustainable development.
  - the effect of the proposed development on the character and appearance of the surrounding area.
- 6.15 The application site is located adjacent to but outside the defined settlement boundary as defined within the Tendring District Local Plan, 2007 which aims to direct new development to the most sustainable sites. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.16 Kirby Cross is identified as part of the town of Frinton and Walton within Saved Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a modest amount of growth can be supported. Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.17 Kirby Cross is identified within Policy SD2 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014) as an urban settlement, where such settlements will be the focus for the majority of the district's economic growth through the new employment sites, investment in town centres, tourist attractions, and key infrastructure.
- 6.18 Given the limited weight that can be applied to the draft Local Plan, and the status of policy QL1, assessment of the principle of development falls to be considered under the NPPF.
- 6.19 Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective for the delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF sets out housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.20 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers consider that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF.
- 6.21 This view has also been supported by the Planning Inspectorate in a number of recent appeal decisions for similar outline schemes.
- 6.22 Members should note that whilst the Council has published the Tendring District Local Plan Proposed Submission Draft (2012), the document is yet to be submitted to the Secretary of State and formal adoption cannot take place before it has been examined, consulted on and found to be sound and until that time the relevant emerging policies may possibly be subject to change. When considered in relation to paragraph 216 of the Framework they may be afforded only limited weight.
- 6.23 Based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any

adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

6.24 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',

- economic,
- social and
- environmental roles.

6.25 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

#### Economic

6.26 Officers consider that the proposal would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants utilising local services, and so meets the economic arm of sustainable development.

#### Social

6.27 In terms of the social role, the site is within close proximity of the local centre with community services such as a convenience store, hairdressers, pharmacy and hot food take-aways within walking distance of the site. The site is also within walking and cycling distance of the local primary school and tennis club/recreational area. Kirby Cross is also on a bus route and there are bus stops on Thorpe Road to the south of the site with services to Clacton and Frinton/Walton.

6.28 In addition it is noted that Kirby Cross train station is within walking distance of the site, which connects Kirby Cross to Frinton/Walton and Clacton (via Thorpe-le-Soken), and further afield into Colchester and London. These facilities go some way to illustrate the sustainability credentials for the village.

6.29 Overall officers consider that the application site performs reasonably in terms of the social role within the definition of sustainability.

#### Environmental

6.30 Further it is noted that the site is located outside but immediately adjacent to the development boundary for Kirby Cross, and the Council is proposing the reduction in the Local Green Gap designation which currently results in the application site being removed from this designation. On this basis officers are of the view that if this site was inside the development boundary it would, subject to the location of the proposed properties, have resulted in the outline application being approved.

6.31 It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact (subject to consideration against other Local Plan policies) as the site immediately adjoins the Settlement Development Boundary in the 2012 Draft Local Plan with a number of existing residential dwellings to the west and south of the site.

6.32 As a result, the development of 9 dwellings would effectively mirror the number of existing dwellings to the west of the site within The Sheltons, and development at the scale

proposed would require development to be set back into the site mirroring the cul-de-sac arrangement of existing dwellings, with the development acting as a natural termination to development in this area of Kirby Cross. On this basis officers consider that a more pragmatic approach is justified in this instance.

- 6.33 It is noted that the Planning Inspector in dismissing the previous appeal for up to 15 dwellings stated, that notwithstanding the site being outside of the settlement boundary the site is close to public transport and other services and considered it to be in a reasonably sustainable location, which attracted weight in support of the proposal in the light of the Framework's presumption in favour of sustainable development.
- 6.34 Therefore, whilst the Council's Strategic Housing Land Allocation Appraisal (SHLAA) (Sept 2013) dismissed this site as an urban extension site within the emerging 2012 Local Plan until at least post 2024, for reasons being that although the site would be a sensible extension to the existing built up area and would extend no further into the surrounding countryside than the adjoining development, the sustainability of the site was questionable given its distance from any services or facilities, and more sustainable alternatives such as land at Turpins Farm was available and the development is not likely to generate the critical mass to deliver or justify the new infrastructure (particularly school provision) that is likely to be required as a result of development in this area, given the lack of a 5 year housing supply the site cannot be solely refused planning permission for residential development just on the basis that it is outside of the defined settlement boundary of Kirby Cross.

#### **Character and Appearance**

- 6.35 The application is in outline with all matters reserved. However, the indicative drawing submitted with the application suggests that the development would comprise 9 detached residential dwellings, presumably two-storey in height (given the DAS states heights would be between 7.5 and 8.5m). Given that the site measures 0.51 hectares, this equates to 18 dwellings per hectare, which is comparable with the existing settlement pattern and grain of the area.
- 6.36 The indicative layout illustrates that 9 dwellings would comply with the Council's requirements with regard to parking provision and amenity space as set out in Saved Policy HG9 of the 2007 Local Plan could be accommodated.
- 6.37 It is considered that the development as shown on the indicative drawing would broadly follow the character and appearance of existing development in The Sheltons. The development would act as a natural termination for development in this area of Kirby Cross. The properties at two-storey in height would be seen in context with existing two-storey development that exists in The Sheltons, and is not considered to adversely affect the character and appearance of the area.
- 6.38 Although design and appearance do not form part of the consideration of this outline application, it is considered that the site is capable of accommodating 9 dwellings in a way that would not result in any adverse impact on the character and appearance of the surrounding area and therefore, officers conclude that the proposed development can be considered as fulfilling the environmental role of sustainable development and consequently does comply with the presumption in favour of sustainable development anticipated in paragraph 14 of the NPPF.
- 6.39 It is acknowledged that the site is located within the Local Green Gap as shown within the 2007 Local Plan, but removed from this designation in the draft 2012 Local Plan.
- 6.40 The purpose of the Green Gap, as explained by Saved Policy EN2 of the 2007 Local Plan, is to be kept open and essentially free of development to protect the area's remaining

village character and rural setting. In this instance, the site is outside of this designation as identified in the 2012 Local Plan. The proposed development is considered to accord with other Development Plan policies, and it will provide a small but identifiable contribution towards the Council's lack of a 5 year housing supply. The benefits of the proposal in delivering housing numbers, and ecological enhancements, are considered to outweigh the harm potentially arising from the development upon part of the Local Green Gap.

- 6.41 Given the edge of settlement location, and the complete lack of any natural boundary features on the site's northern boundary, important consideration would need to be given to the boundary treatments of the proposed properties shown indicatively as plots 1-4. Close-boarded or panel fencing would not be appropriate on this boundary. The indicative layout drawing does not indicate any landscape planting on this boundary, however the submitted DAS states substantial planting can take place which would make a positive contribution and ensure the development is assimilated into its wider countryside setting. However as landscaping is reserved for future consideration, the details are not required at this stage.

### **Neighbouring Amenity**

- 6.42 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (2012) supports these objectives and states that 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.43 The application is in outline form with all matters reserved and officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.
- 6.44 It is noted that concerns have been submitted with regards to adverse impact on neighbouring residential amenity, such as overlooking concerns, however as already stated, the layout plan submitted with the application is an indicative layout only, and members are not assessing the layout as submitted as this is reserved for future consideration.

### **Highway Considerations**

- 6.45 Policy QL10 of the Saved Plan states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. This requirement is also carried forward to Policy SD9 of the Draft Plan.
- 6.46 Essex County Council Highways have been consulted on the application (see above for full comments). They raise no objection to the principle of the development and vehicular access from The Sheltons in this location, but wish for an informative to be added to a planning permission to state the Highway Authority strongly recommends that there should be no vehicular turning facilities for service and delivery vehicles located on The Sheltons due to the limited width of carriageway and forward visibility for joining vehicles, which would lead to conditions of danger, obstruction and congestion. As a result, the indicative layout drawing has been amended to provide a size 3 turning head within the site, rather than within the shared private drive.

- 6.47 The Councils Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garage, if being relied on to provide a parking space should measure 7 metres by 3 metres internally. Furthermore, development sites should provide unallocated visitor spaces at 0.25 spaces per residential unit. As a result the proposal would require an additional 2 spaces. It is considered that the site is capable of accommodating this level of parking.

### **Biodiversity**

- 6.48 Policies within Chapter 6 of the Tendring District Local Plan (2007) and Policy PLA4 of the Tendring District Local Plan Proposed Submission Draft (2012) seek to ensure that where development is likely to harm nature conservation or geo-diversity interests, planning permission will only be granted in exceptional circumstances. The benefits of the development should clearly outweigh the harm caused and where appropriate mitigation measures must be incorporated into the development to the satisfaction of Natural England and other appropriate authorities.
- 6.49 The application site is devoid of any species rich habitat, with the site mainly comprising a grazing paddock and manege. On the eastern boundary is there is an established hedgerow with large trees situated within or close to the hedgerow, but this is unlikely to be affected by the proposed development. No part of the development site or any land that it abuts has any type of statutory or non-statutory conservation designations.
- 6.50 However, given the site's edge of settlement location in proximity to the wider countryside, and in accordance with paragraph 118 of the NPPF, this application provides opportunities to incorporate features into the design which are beneficial to wildlife. For example, roosting opportunities for bats or the installation of bird nest boxes could be secured by condition.
- 6.51 Based on the above it is considered that the development of this site in the manner proposed can be achieved without significant harm to nature conservation or biodiversity interests in keeping with the aims and objectives of National and Local Plan Policies as set out above.

### **Other Material Considerations**

#### **Section 106 Obligations**

- 6.52 Policy COM6 of the Adopted Tendring District Local Plan (2007) states that residential development below 1.5 hectares in size, where existing public open space facilities are inadequate, shall provide a financial contribution towards the provision of new or improved off-site facilities to meet the projected needs of the future occupiers of the development. This requirement is also set out in Policy PEO22 of the Draft Plan.
- 6.53 With regards to public open space contributions, the Public Experience dept has confirmed there is a deficiency of 14.12 hectares of equipped play in Frinton, Walton and Kirby Cross, and any further development will increase demand on already stretched facilities. As a result, a contribution towards play facilities in the local area is justified. The applicant in this instance has indicated they are willing to enter into such an agreement to secure a financial contribution towards play space.
- 6.54 As a result, a draft Unilateral Undertaking has been sent to the applicant, and an update will be given to members at the committee meeting.

### Other Issues

- 6.55 Concerns have been raised with regards to local amenities, such as schools, and doctors surgeries. With regards to schools, Essex County Council Education has been consulted but no response has been received. In any event, the development is below the threshold of unit numbers required under policy COM26 of the 2007 Local Plan where a financial contribution towards education can be sought from the applicant.
- 6.56 With regards to doctor surgeries, the lack of such facilities are not considered to warrant a refusal of outline planning permission. The development proposal is not overly large in the number of proposed residential units, and the requirement of such facilities is not considered to meet the CIL regulations in terms of making this particular development acceptable in planning terms. The requirement of any new doctors surgeries in this particular instance should be left to market conditions.

### Background Papers

None.