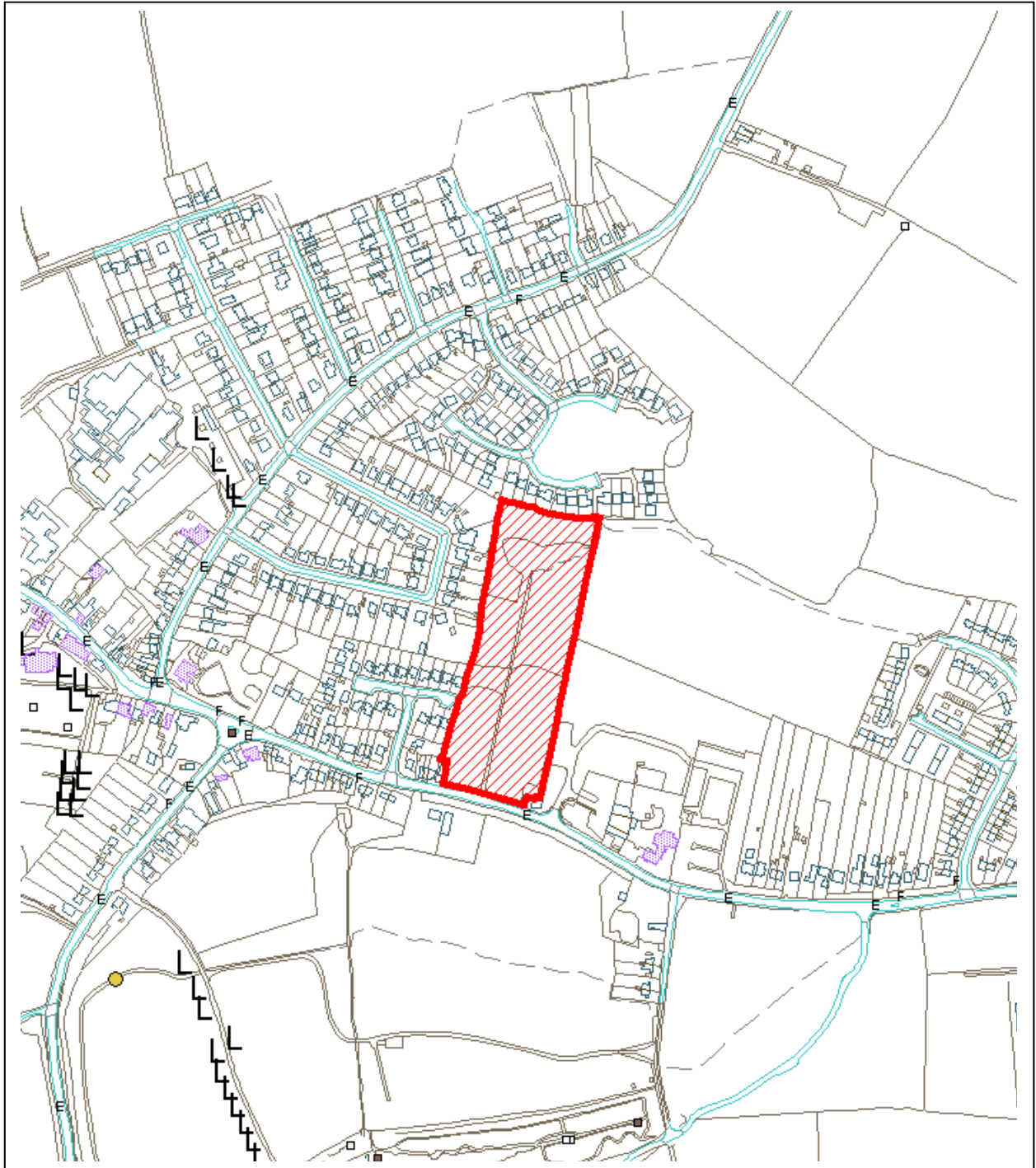


PLANNING COMMITTEE

11 NOVEMBER 2014

REPORT OF THE HEAD OF PLANNING

**A.6 PLANNING APPLICATION - 13/01481/FUL - LAND NORTH OF ABBEY STREET,  
THORPE LE SOKEN, CO16 0JE**



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<b>Application:</b>	13/01481/FUL	<b>Town / Parish:</b> Thorpe Le Soken Parish Council
<b>Applicant:</b>	Bennett Homes	
<b>Address:</b>	Land North of Abbey Street, Thorpe-le-Soken CO16 0JE	
<b>Development:</b>	Development of 40 dwellings and associated access, public open space and other infrastructure and 0.4ha of allotments and associated facilities.	

## 1. Executive Summary

- 1.1 The application site lies outside of the defined settlement development boundary of Thorpe-le-Soken as set out in the Tendring District Local Plan (2007), however the site lies within the extended defined settlement boundary of Thorpe-le-Soken in the Tendring District Local Plan Proposed Submission Draft (2012) (as amended), as supporting an urban extension to the village and has been specifically identified for residential development under policy KEY3.
- 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) (as amended) states that permission is to be refused for new residential development subject to specified exceptions.
- 1.3 Thorpe-le-Soken has been identified as one of seven 'Key Rural Service Centres' within the district in Policy SD3 of the draft Local Plan. These are larger villages containing a relatively good range of local services and facilities with potential for limited growth in homes and jobs. For these settlements, the draft Local Plan identifies opportunities for the enhancement of village centres public transport facilities and other community facilities.
- 1.4 The National Planning Policy Framework 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.
- 1.5 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers recognise 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.
- 1.6 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.
- 1.7 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight.
- 1.8 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 Policies SD3, SD9 and KEY3 of the Tendring District Local Plan Proposed Submission Draft (2012) (as amended).

### **Recommendation: Approve Full**

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

a) Within 6 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 (where required)

- Affordable Housing Provision;
- Education Provision;
- Public Open Space Contribution Provision;
- Transfer of allotments to Parish Council.

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. The development hereby permitted shall begin no later than three years from the date of the permission.
2. Development in accordance with approved Plans.
3. Details of materials.
4. Hard and soft landscaping details including tree protection measures.
5. All hard and soft landscaping implementation.
6. Landscaping - Five year clause.
7. As requested by the Highway Authority.
8. Details of boundary treatment including details of enclosing allotments, newt run, informal open space, and wildlife habitat.
9. Details of Refuse storage/collection areas.
10. Scheme to provide renewable energy and energy and water efficiency technologies to be used.
11. Archaeology investigative and report works.
12. Ecological management plan and mitigation scheme.
13. Site lighting strategy.
14. Surface water drainage scheme as requested by the Environment Agency.
15. Sub-station details.
16. Construction Method Statement, including hours of operation during construction.
17. Details of access path construction to land to the east (policy KEY3).
18. Details of windows and doors, including door casings and window surrounds, eaves and verges to be used in Plots 1, 2, 3 and 40.
19. All brickwork with a public face to the conservation area to be used in Plots 1, 2, 3 and 40 and any associated brick walls, to be constructed using a Flemish bond brickwork finish.
20. Roof-light to Plot 19 to be inserted with a cill height at a minimum of 1.7m from finished floor level.
21. Landscape Management Plan.

c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 months, as the requirements necessary to make the development acceptable in planning terms had not been secured through S106 planning obligation, contrary to saved policies COM6, HG4, COM26 and QL12 of the Tendring District Local Plan (2007) and draft policies SD7, PEO10 and PEO22 of the Tendring District Local Plan Proposed Submission

## 2. **Planning Policy**

### National Policy:

National Planning Policy Framework (2012)

National Planning Practice Guidance (2014)

### Local Plan Policy:

*Tendring District Local Plan 2007*

QL1 Spatial Strategy

QL2 Promoting Transport Choice

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

QL12 Planning Obligations

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM4 New Community Facilities (Including Built Sports and Recreation Facilities)

COM6 Provision of Recreational Open Space for New Residential Development

COM 9 Allotments

COM26 Contributions to Education Provision

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species  
EN6B Habitat Creation  
EN13 Sustainable Drainage Systems  
EN17 Conservation Areas  
EN23 Development Within the Proximity of a Listed Building  
TR1A Development Affecting Highways  
TR1 Transport Assessment  
TR3A Provision for Walking  
TR4 Safeguarding and Improving Public Rights of Way  
TR5 Provision for Cycling  
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  
SD3 Key Rural Service Centres  
SD5 Managing Growth  
SD7 Securing Facilities and Infrastructure  
SD8 Transport and Accessibility  
SD9 Design of New Development  
SD10 Sustainable Construction  
PRO2 Improving the Telecommunications Network  
PEO1 Housing Supply  
PEO2 Housing Trajectory  
PEO3 Housing Density  
PEO4 Standards for New Housing  
PEO5 Housing Layout in Tendring  
PEO7 Housing Choice  
PEO8 Aspirational Housing  
PEO9 Family Housing

PEO10 Council Housing

PEO22 Green Infrastructure in New Residential Development

PLA1 Development and Flood Risk

PLA3 Water Conservation, Drainage and Sewerage

PLA4 Nature Conservation and Geo-Diversity

PLA5 The Countryside Landscape

PLA6 The Historic Environment

PLA7 Conservation Areas

PLA8 Listed Buildings

KEY3 Development North of Abbey Street, Thorpe le Soken

Other guidance:

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

**3. Relevant Planning History**

None

**4. Consultations**

- 4.1 TDC Public Experience (Open Space & Play) – Request Section 106 monies in line with policy PEO22 of the draft Local Plan (See Assessment Below).
- 4.2 TDC Regeneration – Broadly supportive of this application, but would request that the developer should clarify the provision of broadband to the site as per the requirements of Policy PRO2 to ensure the development is adequately served.
- 4.3 TDC Building Control – No adverse comments at this time.
- 4.4 TDC Housing – Provision of 4 x 2-bed (3 x social rented, and 1 x intermediate rented) affordable properties on site is acceptable.
- 4.5 TDC Public Experience (Environmental Services) – Concerns over construction work close to existing residential accommodation.
- 4.6 Environment Agency – No objection subject to the imposition of a condition requiring a detailed surface water drainage scheme based on sustainable drainage principles.
- 4.7 Essex County Council SuDS Approval Body – Advisory comments.
- 4.8 Essex County Council Archaeological Services – No objection subject to programme of archaeological trial trenching in accordance with a written scheme of investigation.

- 4.9 Essex County Council Education Services – Request Section 106 monies (See Assessment below).
- 4.10 Essex County Council Highways Dept – The Highway Authority has been consulted on amended layout drawings, and an update will be given at Planning Committee.
- 4.11 Essex County Fire & Rescue Service – Access for Fire Service purposes is considered satisfactory. More details observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.
- 4.12 Highways Agency – As the proposed development is unlikely to affect the A120 they wish to offer no comment.
- 4.13 Natural England – Advisory comments.
- 4.14 Anglian Water – Advisory comments. No objection.
- 4.15 Essex Wildlife Trust – No comments received.
- 4.16 UK Power Networks – No comments received.
- 4.17 Essex Police Service – No comments received.
- 4.18 SusTrans – Proposal appears to make no mention of, or provide facilities for cycle storage or cycleways, or interconnection for cyclists to the surrounding area. A contribution towards improvements to the B1033 between Thorpe and Kirby would be a benefit to those on foot and cycle travelling between these towns.

## **5. Representations**

- 5.1 The Parish Council has provided comments on the application. These comments are listed below:
- Independent Assessment required as to whether the sewerage system that is already in crisis can take any more.
  - At this present time Thorpe already suffers from Major Infrastructure problems i.e. sewerage, schools and doctors full to capacity.
  - What plans are made for rain water disposal: The surface water pipe that goes under the road adjacent The Old Telephone Exchange and disperses water from the allotment site needs to be replaced with a larger 1 metre bore pipe. This is considered urgent due to the infrequency of clearing ditches and roadside drains.
  - No bungalows or 3-bedroom affordable housing properties on site.
  - The need for a crossing will be warranted with easier access from the Spennells along with tenants from the proposed site on the allotments and children from Nanny Jo's Nursery in Frinton Road going to the playing field in Abbey Street.
  - A water stand pipe should be provided for allotments.
  - A section 106 contribution is to be expected to improve the infrastructure.
- 5.2 A total of 7 representations have been received for this application.
- 5.3 6 representations have been received objecting to the development. The issues raised are summarised below:
- Concern regarding overlooking
  - Loss of trees and wildlife

- Devalue property
- Concern over re-use of pedestrian access to side of property – security issue
- Over development of site
- Village cannot support this number of new homes
- Schools are already full
- Increase in traffic a concern – more congestion
- Concern over proposed boundary fencing
- Green areas a concern
- Attention needs to be given to bats, newts and common lizard
- Concern over number of houses surrounding 1 Frinton Road
- Not in keeping with surrounding properties
- High density housing should be kept over towards Oak Close
- The sewer system not sufficient
- Concern over how safety site splays would be achieved
- 30 mph should be extended
- Concern over loss of great crested newt habitat
- Concern over loss of habitat for greater spotted woodpecker, barn owls and nightjar
- Habitat survey too old – completed in May 2011
- 40 dwellings too many – 40 needed in Thorpe in the next 10 years.
- Current drainage poor
- Concern over insufficient parking
- All land owners should be given opportunity to build on village perimeter
- Concern over electricity sub-station in close proximity to property – health risk concerns
- Surface water drainage concerns

5.4 1 representation has been received supporting the development, which is summarised below:

- Improve access from The Spennells to Frinton Road
- Create additional amenity space for Thorpe residents, including allotments
- Houses sited with due consideration to privacy

## 6. **Assessment**

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Housing and Density;
- Layout, Scale and Design;
- Residential Amenity
- Highways and Parking Issues;
- Impact on Heritage Assets;
- Biodiversity;
- Arboriculture/Landscaping;
- Drainage and Flood Risk;
- Section 106 Obligations; and,
- Other Issues.

### **Site Context**

6.2 The application site measures approximately 2.45 hectares. The site was formerly occupied by privately owned allotments but is now redundant land covered in the main by thick



brambles. There are a number of trees also located across the site that are subject to a collective preservation order TPO/10/09. The site is devoid of any buildings.

- 6.3 The site is located on the eastern edge of the village of Thorpe-le-Soken, approx. 300 metres from the village centre, outside of the defined settlement boundary of the village as depicted in the 2007 Local Plan, but located inside within the draft 2012 Local Plan. The application site is also protected as allotments within the 2007 Local Plan, but removed from this designation within the draft 2012 Local Plan.
- 6.4 The entire frontage of the site forms a boundary with Abbey Street (B1033), with approx. 24 metres (depth) of this frontage located within the Thorpe-le-Soken Conservation Area. A public footpath runs adjacent to the southern boundary of the site in line with Abbey Street which connects the site to the village centre. To the south of the site beyond Abbey Street is a dense screen of mature trees with the scout hut and associated Lady Nelson playing fields are located.
- 6.5 To the west of the site, which also forms part of the conservation area, are examples of late 20th century housing developments, in the form of Oak Close and Abbey Crescent, which has a mixture of two-storey and single-storey development.
- 6.6 To the north of the site is further late 20th century housing development in the form of Beldams Close, which has a mixture of two-storey and single-storey development. A pedestrian access leads from Beldams Close into the application site (although currently blocked off).
- 6.7 To the east of the site is a vehicular access which leads to Nanny Jo's Nursery, and the recent extension to Elm Farm caravan park (planning permission 08/00192/FUL refers). This access is also used by a recently constructed two-storey detached dwelling which is located at the south-east corner of the site (No. 1 Frinton Road - Planning permission 06/01754/FUL refers). Also located to the east of the site, and to the north of the caravan park extension is undeveloped open land (laid to grass) which is located outside of the defined settlement boundary within both the saved 2007 Local Plan and draft 2012 Local Plan.
- 6.8 The site frontage falls within the 30 MPH zone of Abbey Street, with the 40 MPH located to the east of the existing vehicular access to Nanny Jo's.
- 6.9 The site benefits from an existing vehicular access off Abbey Street to the former allotment site, but vegetation has grown up around this access. It is understood the allotment has not been in productive cultivation for over 10 years.
- 6.10 Despite the pedestrian access from Beldams Close to the north of the site, no public rights of way run through the site. An overhead line traverses the northern portion of the site.
- 6.11 The topography of the site is relatively level, with a slight fall to the south boundary.

### **Proposal**

- 6.12 The application has been submitted for full planning permission, which includes the erection of 40 dwellings with associated access, public open space and other infrastructure and 0.4 hectares of allotments and associated facilities.
- 6.13 The proposal comprises the erection of 6 x 2-bed units, 21 x 3-bed units, 12 x 4-bed units, and 1 x 5-bed unit. Four 2-bed units have been offered as affordable housing. Included within other infrastructure mentioned in the description is the erection of garages. The housing density equates to approx. 16 dwellings per hectare.

- 6.14 All of the proposed dwellings are two-storey in height.
- 6.15 The layout has been designed for a single vehicular access point to be located off Abbey Street, onto a landscaped tree lined street. Pedestrian access will be opened up into the site from the south via the Abbey Street junction, and the existing pedestrian access off Beldams Close.
- 6.16 A future access path is also to be formed to the undeveloped land to the east of the site.
- 6.17 The proposal includes 0.4 hectares of allotments towards the western boundary of the site, which includes parking courts for 12 allocated parking spaces. Shared surface parking courts are also proposed for some of the dwelling units.
- 6.18 The proposal also includes 0.38 hectares of informal open space for amenity and wildlife habitat. Within the 0.38 hectares is proposed a SUDS pond feature. Due to the presence of Great Crested Newts found within a water body adjacent to the western boundary of the site, a newt run is proposed between this pond and the proposed wildlife habitat, with a newt bridge designed into the engineering of the spine road into the site.
- 6.19 Included within other infrastructure in the description is the siting of a substation towards the western boundary of the site.

### **Principle of Development**

- 6.20 The application site is located immediately to the east of existing residential development in Thorpe-le-Soken. The site is adjacent to but outside the village development boundary as defined within the Tendring District Local Plan (2007) which aims to restrict 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.
- 6.21 Thorpe-le-Soken is identified as a village within 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.
- 6.22 The application site has been identified within the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014) as supporting an urban extension to the village and has been specifically identified for residential development under policy KEY3.
- 6.23 Policy KEY3 is outlined below:

Land north of Abbey Street, Thorpe-le-Soken (as defined on the Policies Map Inset) is allocated for residential development and new allotments. The Council will work with the developer (and relevant partners) prior to the submission of a planning application to ensure that alongside other relevant policy requirements in Chapters 2 to 5 of this Local Plan, development proposals must also meet the following specific requirements:

- a) the vehicular access point into the site shall be off Abbey Street;
- b) development in the southern portion of the site fronting Abbey Street shall be designed to protect and enhance the Thorpe-le-Soken Conservation Area;
- c) the development must retain and incorporate existing trees and other site features of important amenity value into the design and layout, where possible;

- d) the development must provide a safe pedestrian footpath/cycleway through the development from Beldam's Close in the north to Abbey Street to the south, including links to the countryside beyond;
- e) the development shall be designed to minimise any material adverse impacts on existing surrounding residential development and open countryside to the north-east (using appropriate landscaping where necessary); and
- f) the development will set aside a minimum of 0.5 hectares of land as 'green infrastructure' that will incorporate 0.4 hectares of allotment which will be transferred to Thorpe-le-Soken Parish Council for future management and 0.1 hectares of landscaping and informal open space.

- 6.24 However, 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.
- 6.25 Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective 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.
- 6.26 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.
- 6.27 This view has also been supported by the Planning Inspectorate in a number of recent appeal decisions for similar outline schemes.
- 6.28 The Council has published the Tendring District Local Plan Proposed Submission Draft (2012), but the document is yet to be submitted to the Secretary of State. 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 be subject to change. When considered in relation to paragraph 216 of the Framework they may be afforded only limited weight.
- 6.29 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.
- 6.30 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.
- 6.31 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***

- 6.32 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 such as shops and public houses within the village, and so meets the economic arm of sustainable development.

### ***Social***

- 6.33 In terms of the social role, the site is within close proximity of various community services all within walking distance of the site. Thorpe-le-Soken is also on a bus route and there are bus stops on Abbey Street, Frinton Road and Station Road to the south of the site, with services to Clacton and Harwich, and Colchester and Walton-on-the-Naze.
- 6.34 Thorpe-le-Soken also benefits from the provision of a day nursery, pre-school, primary school and high school, all within walking distance of the site.
- 6.35 Furthermore, it is noted that Thorpe-le-Soken train station is within walking distance of the site, which connects the village to Clacton and Colchester, and further a field into London.
- 6.36 In addition, it is noted that Thorpe-le-Soken has been identified as one of seven 'Key Rural Service Centres' within the district in Policy SD3 of the draft Local Plan. These are larger villages containing a relatively good range of local services and facilities with potential for limited growth in homes and jobs. For these settlements, the draft Local Plan identifies opportunities for the enhancement of village centres public transport facilities and other community facilities. Whilst the policy has limited weight at this stage, it goes some way to illustrate the sustainability credentials for the village and the site.
- 6.37 Overall officers consider that the application site performs reasonably well in terms of the social role within the definition of sustainability.

### ***Environmental***

- 6.38 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 residential dwellings to the west and north of the site, and a caravan park extension to the east of the site where static caravans are to be located.
- 6.39 As a result, development would be comparable with existing development in the locality. On this basis, and given the inclusion of the site within the defined settlement boundary in the draft Local Plan, Officers consider that a more pragmatic approach is justified in this instance to development, as the development of this site can be achieved in keeping with the aims and objectives of National Planning Policy Framework.

### **Housing and Density**

- 6.40 The NPPF requires Councils to boost, significantly, the supply of housing to address objectively assessed needs and promote a wide choice of high quality housing. Paragraph 49 of the NPPF makes it clear that proposals for housing development should be considered positively in the context of the 'presumption of sustainable development' and Paragraph 47 requires Councils to identify, in any one year, a supply of five years' worth of developable housing land with a degree of flexibility to promote choice and competition in the market for land.

- 6.41 The Council's 2007 Adopted Local Plan was only intended to provide housing land up to 2011 and therefore the housing supply elements of that plan are now out of date and if the Council were to rely solely on that plan, it would not be possible to demonstrate a five year supply of housing land.
- 6.42 In the absence of a five year supply of deliverable housing sites, the Council is expected to comply with the NPPF's 'presumption in favour of sustainable development' and, where possible, support proposals for housing development. The application site has been identified for residential development in the draft Local Plan, with an indicative number of 40 residential units.
- 6.43 One of the key issues is whether the site can accommodate the level of development proposed in an acceptable manner and whether the density of the site is appropriate to the site and its surroundings. Policy PEO3 of the draft Local Plan requires new residential development to achieve an appropriate housing density that has regard to various factors, including the character of development in the immediate area. The density of this proposal equates to approx. 16 dwellings per hectare. Moreover, the development of the site is split into areas with distinct urban characters. At the southern end of the site the development is intended to have the character of a traditional village street (in part to preserve the character of the conservation area), the space tightly enclosed by surrounding buildings creating a strongly defined street form, opening out in places into courts and squares where buildings sit back from the street. Whilst at the northern end of the site is a more Arcadian form of development, with detached dwellings sitting amongst trees and shrub planting arranged around an area of informal open space. These two distinct areas equate to approx. 32 dwellings per hectare over a 0.95 hectare area within the village street area, and approx. 9 dwellings per hectare over a 1.2 hectare area within the Arcadia area. This is considered to be comparable to the character of the area.
- 6.44 Because the application site is the subject of an allocation in the draft 2012 Local Plan that has previously been approved by Full Council, there is already an acceptance that development in this location could be supported. The fact that the draft Local Plan has been published for consultation, and following comments received the allocation remains within the draft Local Plan through the Pre-Submission Focused Changes (2014), adds further weight to the argument that this application should be approved to ensure compliance with the NPPF and the presumption in favour of sustainable development.
- 6.45 Policy PEO7 of the draft Local Plan (as amended) supports the objectives of the NPPF by promoting a mix of housing size, type and tenure on new development sites of 10 units or more, with a preferred mix being:
- At least 10% of dwellings to be private housing with 4 or more bedrooms;
  - At least 40% of dwellings to be private housing with 3 bedrooms;
  - Between 10% and 25% of dwellings to be Council Housing or Affordable Housing; and
  - Between 25% and 40% to be determined by developers in responding to market demand.
- 6.46 As previously stated, the application as submitted proposes 6 x 2-bed units, 21 x 3-bed units, 12 x 4-bed units, and 1 x 5-bed unit, and therefore this proposal is in line with the draft Local Plan policy.
- 6.47 Furthermore, Policy PEO10 of the draft Local Plan requires development proposals involving the development of 10 or more dwellings to provide 25% of the new dwellings as affordable units, with a minimum of 10% of new dwellings to be provided on site, and the remainder of the 25% requirement offered as an off-site financial contribution towards the construction of property for use as Council Housing. In this instance the applicant is offering

to provide 10% (4 dwellings) as on-site affordable homes, with a remaining off-site contribution to be negotiated with the Council (see Section 106 Obligations section).

- 6.48 Given that the character of the area is mainly family housing, and the limited weight afforded to policy PEO7 of the draft Local Plan, it is considered that the proposed housing choice in this particular location is acceptable.
- 6.49 The applicants propose 40 residential units on the site. Given the comments above it is considered such a number can be integrated into the existing fabric whilst generally complying with other policies.

### **Layout, Scale and Design**

- 6.50 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.
- 6.51 With regard to decision taking this means:
- approving development proposals that accord with the development plan without delay; and
  - where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.
- 6.52 The NPPF in Chapter 6 sets out its commitment in terms of the provision of delivering a wide choice of high quality homes.
- 6.53 In support of the overarching aims and objectives of the NPPF the Tendring District Local Plan Proposed Submission Draft sets out the Council's commitment to sustainable development in Policies SD1, SD2 and SD5 while the requirements for good quality design are set out in Policy SD9.
- 6.54 The submitted details show that the development site covers an area of approximately 2.45 hectares. The development would therefore result in an average housing density of 16 dwellings per hectare, but broken down into two distinct character areas as described above, which is considered to be acceptable in this location, and would integrate the development into the grain of existing development.
- 6.55 The site's vehicular entrance is taken from Abbey Street, which has been framed by an appropriate street frontage to Abbey Street of unimposing two-storey development to respect the character of the conservation area, whilst the internal site layout creates a quality street scene and a hierarchy of streets and places appropriate to the location.
- 6.56 In terms of provision of private amenity space, Policy HG9 of the Tendring District Local Plan (2007) states that private amenity space for houses with three or more bedrooms shall have a minimum of 100 sqm whilst houses with two bedrooms shall have a minimum of 75 sqm. Policy PEO4 of the draft Local Plan requires development proposals for 2, 3 and 4 bedrooms houses to have private amenity space to be at least equal to the total internal floor area of the dwelling.
- 6.57 In this instance, all but one of the 2-bed units are below the requirement of 75 sqm, whilst 12 of the 21 x 3-bed units are below the requirement of 100 sqm. This is broken down as unit 1 (70 sqm), unit 2 (72 sqm), unit 35 (70 sqm), unit 37 (68 sqm) and unit 38 (74 sqm).

Whilst the 3-bed units include unit 3 (91 sqm), unit 5 (92 sqm), unit 6 (89 sqm), unit 7 (88 sqm), unit 8 (98 sqm), unit 9 (90 sqm), unit 11 (93 sqm), unit 13 (99 sqm), unit 14 (98 sqm), unit 15 (92 sqm), unit 16 (96 sqm), and unit 27 (88 sqm). However, it is noted the deficiency in garden sizes are generally only by approx. 10% in the worst case and it is considered on balance the gardens sizes proposed are deemed to be acceptable, and the proposal creates an acceptable form of development to future users.

- 6.58 Paragraph 61 of the NPPF states that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations and therefore planning decisions should address the connections between people and the places and the integration of new development into the built environment. With regards to this application, two proposed pedestrian and cycle linkages are provided from the south and the north of the development to provide permeability of the site, and greater connectivity to the surrounding built form, and village recreational ground to the south, with a third future footpath link to the east of the site to ensure such a route is accommodated and included in the scheme to avoid any future ransom over its use if this land is ever developed.
- 6.59 With regards to scale, the proposed development is two-storey in height. The properties to the north and west are a mixture of dwelling types of differing size and heights, but it is noted the dwellings within the conservation area fronting onto Abbey Street are in the main two-storey in height, with the exception of 2 or 3 properties. Although the scheme needs to be in keeping in terms of scale and massing in relation to the neighbouring properties and local context, the application site with its singular vehicular access does create its own sense of place, and the two distinct character areas afforded to the southern portion and northern portion of the site looks to the wider historical context and historical grain of typical villages in the Tendring area, with narrow streets enclosed with 2-storey dwellings close to the street edge.
- 6.60 The street scenes have been designed to create an interesting and contextually appropriate character to the development by including varied eaves and ridge heights; varied roof pitches; gables and hipped roofs; dormer windows; scale and height of dwellings reflect scale of spaces in front; larger dwellings face onto larger open spaces; mixture of materials; and variety of styles and characteristics. This is intended to create the appearance of a street that has grown organically over a longer period reflecting the historic development pattern surrounding villages.
- 6.61 The applicants have given a general indication of the likely appearance and use of materials in the construction of the development. The house types are varied by both design and size, but all follow an Essex Village orientated design approach with the use of natural materials commonly used in traditional Essex houses. This approach helps to demonstrate that the design is suitable within its immediate surroundings and local context.
- 6.62 The applicant has provided through the Site Plan and the Design and Access Statement an indication of the proposed hard and soft landscaping strategy for the site. This includes new tree and shrub planting as well as retained trees and hedgerows to help assimilate the development into its wider setting. Such proposals can be controlled by condition and specific details submitted at a later date.
- 6.63 Based on the land available for development and having regards to localised constraints (conservation area setting, culvert to frontage), it is considered that developing this site for 40 residential units with associated parking and private amenity spaces could be successfully achieved.

## **Residential Amenity**

- 6.64 Saved Policy QL11 of the Tendring District Local Plan (2007) and Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (November 2012) states that new development will only be permitted if, amongst other things, the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.65 The main issues to be addressed are the effects of the development upon the residential amenity of occupiers of adjoining properties and within close vicinity of the site. Objection has been raised to the scheme in relation to overlooking leading to a loss of privacy as a result of the fenestration layout, and loss of light as a result of the scale, siting and mass of the buildings.
- 6.66 At present the site is vacant and it has not been occupied as residential development in the past. Existing properties, including those to the west and north of the site, and the dwelling to the south-east corner of the site, have been afforded a greater degree of privacy than might be expected of other existing dwellings in a developed location.
- 6.67 The layout drawing submitted with the application indicates Plots 1, 18, 19 and 21 are closest in proximity to the western boundary, and therefore closest to the existing residential properties. Plots 22, 23 and 24 are closest in proximity to the northern boundary, whilst plots 35, 36, 39 and 40 are closest to the existing dwelling adjacent the south-east boundary of the site.
- 6.68 With regards to the western boundary, Plot 1 has a narrow span gable end wall with no windows facing towards an existing property known as Wild Goose Studio (The Old Telephone Exchange). Plot 1 is set slightly further forward of this property, and as a result no overlooking of this existing property will occur.
- 6.69 With regards to Plot 18, the relationship of its rear elevation to the western boundary has been amended to ensure it addresses this boundary at 30 degrees, as opposed to 25 degrees, to overcome any concerns with regards to overlooking, as per the guidance given in the Essex Design Guide. It is therefore considered that the future occupation of this dwelling will not lead to a loss of privacy to existing residential dwellings.
- 6.70 With regards to Plot 19, this dwelling has been designed and orientated to ensure no first floor windows are facing existing properties to the west. However, this proposed dwelling has an integral double garage with living accommodation within its roof. The submitted plans indicate an annexe is to be located within the roof, with a dormer window facing out into the new development, and a single roof-light facing towards existing properties to the west. Given that the distance to the boundary is only 6 metres, a condition will be imposed requiring this roof-light to be set a minimum of 1.7m above finished floor level.
- 6.71 With regards to Plot 21, this has been designed and orientated to ensure no overlooking of existing properties will occur.
- 6.72 It is noted that bedrooms and living rooms are deemed to be habitable rooms by the Essex Design Guide, and therefore great care is required to ensure new developments do not impinge adversely on existing amenities by requiring the careful placement of such new windows. In this instance, the layout submitted indicates the rear elevations of Plots 22, 23 and 24 to be located a minimum of 16 metres away from the boundary with existing residential properties to the north, and a minimum of 27 metres back to back distance. The Essex Design Guide states that for the rear-facing habitable rooms, the rear faces of opposite houses where approximately parallel, a minimum of 25 metres between the backs



of houses is usually acceptable, and usually 15 metres away from the boundary of adjacent properties.

- 6.73 In this instance the minimum back to back distance on the layout drawing for Plot 22 is 27 metres, Plot 23 is 32 metres, and Plot 24 is 32 metres, whilst the distance to boundary is 16 metres for Plot 22, 23 metres for Plot 23, and 21 metres for Plot 24. It is therefore considered by Officers that the development would not result in any adverse impact upon existing residential amenity by way of overlooking to the existing properties to the north of the site.
- 6.74 Furthermore, the layout drawing shows the existing property adjacent to the south-east corner of the site (No. 1 Frinton Road), enveloped by Plots 35, 36, 39 and 40. In this instance the minimum back to back distance on the layout drawing for Plot 35 is 25 metres, Plot 36 is 26 metres, Plot 39 is 25 metres, and Plot 40 is 25 metres, whilst the distance to boundary is 15.5 metres for Plot 35, 15 metres for Plot 36, 13.5 metres for Plot 39 and 13 metres for Plot 40. Whilst the back to back distances comply with the guidelines in the Essex Design Guide, the distance to boundary to Plots 39 and 40 fall short of the 15 metres guideline. It is noted however that this is a guideline. It is noted that the Tree Survey Plan submitted with the application indicates the retention of trees and hedgerows within the curtilage and on the boundary of Plot 40 which would also obscure views towards No.1 Frinton Road from Plot 39. It is therefore considered by officers that the upper floor windows from Plots 39 and 40 will not result in any significant adverse impact upon existing residential amenity by way of overlooking.
- 6.75 Concern has been raised with regards to the proposed electricity substation located on the western boundary of the site adjacent to the allotment parking. The new sub-station is positioned approx. 15 metres from the nearest dwelling (this being No.10 Oak Close). The transformer will be located within an acoustic kiosk which would mitigate any disturbance caused by noise, and in addition if required the transformer could be mounted on acoustic mounts to prevent vibrations being transmitted to the sub-structure and ground. UK Power Networks aims to locate sub-stations a minimum of 10 metres from residential properties, and therefore it is considered the proposed sub-station is suitably located and will not have an adverse impact on neighbouring residential amenity, subject to these details being agreed by condition.
- 6.76 Concern has been raised with regards to opening up the pedestrian access from Beldams Close. This access is currently closed off by a metal post and rail fence. The Council has been advised by the adjacent home owner that when purchasing their property they were informed this right of way was only for maintenance to the electric pylon behind their property. However it must be assumed this pedestrian access previously would have been used by allotment holders, formally or informally. It is understood that this pedestrian access is not a public right of way maintained by Essex County Council.
- 6.77 This pedestrian access is enclosed by existing 1.8 metre close-boarded fencing either side. As stated, the access is already there and as a consequence is already a perceived security concern. Whilst accepting the proposed development will add pedestrian traffic along this access path, it is not considered to amount to a reason to refuse planning permission, and it is noted the proposed development behind this property will act as natural surveillance for those properties along the northern boundary of the site.
- 6.78 Concern has been raised by the Council's Environmental Services team with regards to construction work in close proximity to existing residential properties. As a result, it is considered appropriate to impose a Construction Method Statement condition, requiring details of hours of construction on site, and measures to minimise noise, dust and other nuisances.

## **Highway and Parking Issues**

- 6.79 Paragraph 4 of the NPPF sets out the criteria for promoting sustainable transport and in this regard stipulates in Paragraphs 34 to 36 how this should be approached. The overall aims and objectives of the NPPF are supported by Policies contained within Chapter 7 of the Tendring District Local Plan (2007) as well as by Policies SD8 and PEO4 of the draft Local Plan.
- 6.80 Paragraph 34 indicates that decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.
- 6.81 Paragraph 35 further requires that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to:
- accommodate the efficient delivery of goods and supplies;
  - give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
  - create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
  - incorporate facilities for charging plug-in and other ultra-low emission vehicles; and,
  - consider the needs of people with disabilities by all modes of transport.
- 6.82 Paragraph 37 stipulates that there should be a balance of land uses within the area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.
- 6.83 In this regard and in support of the application, the applicants have submitted a Transport Assessment (TA), which identifies that the site is in a location suitable for development in accordance with national and local planning policy. It is within walking and cycling distance of local bus stops served by routes providing links to surrounding towns, and of Thorpe-le-Soken railway station on the National Express East Anglia line. The TA can be reviewed in full by members on the planning pages of the Council's website.
- 6.84 The TA has examined the existing highway conditions, the accident data over the period 01/08/2009 to 31/07/2012 (3 years), and the proposed site access arrangements and junction visibility in the locality.
- 6.85 The TA concludes that:-
- The proposed development will be accessed via a new junction with Abbey Street at the existing access location, designed in accordance with current design standards and agreed with the Highway Authority.
  - The accessibility of the site by public transport, bicycle and on foot has been assessed and proposals outlined to ensure a high level of accessibility by non-car modes in accordance with the objectives of national and local policy.
  - A detailed assessment of walking routes to school between the site, Rolph Church of England Primary School and Tendring Technology College has been undertaken and identifies that the existing routes provide a high level of pedestrian connectivity between the site and the existing education facilities.
  - A qualitative highway safety assessment has been undertaken for the highway network surrounding the site and it is considered that there are no significant prevailing highway safety concerns in relation to the proposed development.
  - All servicing requirements including refuse collection and access by emergency vehicles will be wholly accommodated within the site.

- Vehicular parking provision for the proposed development will be made in accordance with the EPOA Parking Standards for Essex and as agreed with ECC Highways in respect of the allotment provision.
- Vehicular trip generation has been calculated for the proposed development utilising the industry standard TRICS database. Distribution and assignment of the forecast trips across the highway network has been undertaken with the National Census 2001 travel to work data.
- Observed traffic data was obtained at the two junctions of the B1033 with the B1414 on the local highway network in Thorpe-le-Soken in September 2010 to inform highway capacity assessments and has been factored using TEMPRO growth factors to the 2013 baseline scenario.
- The traffic impact of the proposal has been assessed in detail for the purposes of a development of 40 dwellings.
- The assessment indicates that the proposed site has the potential to accommodate up to 40 dwellings within the constraints of the existing proposed highway network in the vicinity of the site.
- Mitigation measures are proposed in order to minimise the impact of the proposed development upon the adjacent highway network in the vicinity of the site.
- The foregoing assessment has demonstrated that the existing network has the potential to provide an acceptable level of access to the proposal site for the purpose of 40 dwellings within the context of the mitigation requirements of the background traffic.

6.86 On this basis, the TA states the proposal is acceptable in highway, traffic and transport terms.

6.87 With regards to the internal layout of the proposed development, Essex County Council as the Highway Authority recommended refusal of the scheme as the layout was deficient in design terms or various essential features had not been provided within the layout. Following various design meetings between the applicant and the Highway Authority, amended layout drawings have been received. The Highway Authority has been re-consulted and an update will be given at Planning Committee as to their response to these amended drawings.

6.88 With regards to parking, the adopted 2009 parking standards require residential units with 2 bedrooms or more to be provided with at least two parking spaces. Furthermore, development sites should provide unallocated visitor spaces at 0.25 spaces per residential unit. These standards can be reduced in sustainable locations.

6.89 In this instance, all dwellings have the provision of two off-site parking spaces, except Plots 8 and 9 which have the provision of a car port each to accommodate one off-street parking space, and Plots 35-38 (4 units) share a parking court with 6 off-street parking spaces. Furthermore, the proposed layout accommodates 9 visitor parking spaces throughout the development (equates to 0.225 spaces per residential unit). However, given the sustainable location of the site, the proposed level of car parking is considered to be appropriate for the intended development mix in this sustainable location.

6.90 Based on the above it is considered that the application site would comply with the aims and objectives of the NPPF as well as Local Plan Policies with regard to highway safety and parking requirements.

### **Impact on Heritage Assets**

6.91 The enduring physical presence of the historic environment contributes significantly to the character and 'sense of place' of rural and urban environments. Some of this resource lies

hidden and often unrecognised beneath the ground in the form of archaeological deposits, but other heritage assets are more visible.

- 6.92 Policy PLA6 of the draft Local Plan states that the Council will work with its partners to understand, protect and enhance the district's historic environment by, amongst other things, requiring archaeological evaluation to be undertaken for schemes affecting sites that do or might contain archaeological remains. Furthermore, Policy PLA7 of the draft Local Plan states within a conservation area, development will not be permitted unless the proposal (inter alia), is of a design and/or scale that preserves or enhances the special character or appearance of the area and is compatible with neighbouring buildings and spaces; and uses building materials, finishes, and building techniques, including those for features such as walls, railings, gates and hard surfacing, that are appropriate to the local context. These sentiments are echoed in policies EN17 and EN29 of the 2007 Local Plan.
- 6.93 The NPPF is clear that when determining applications, Local Planning Authorities (LPA's) should require the applicant to describe the significance of a heritage asset affected, including any contribution made by their setting. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 6.94 The NPPF further states that where a site includes or has the potential to include heritage assets with archaeological interest, LPA's should require developers to submit an appropriate desk-based assessment and where necessary a field evaluation. In this instance the applicant has submitted an Archaeological Desk Based Assessment.
- 6.95 This Assessment suggests that the application site has been used for agriculture since at least the Post-Medieval period, and there is no evidence for settlement on the site. Consequently the site is deemed to have a negligible and low archaeological potential for all periods.
- 6.96 With regards to the submission of the archaeological assessment, the Senior Historic Environment Consultant at Essex County Council has been consulted and has advised a programme of trial trenching followed by open area excavation to be imposed as a condition if planning permission is granted. This is due to the Tendring Historic Environment Characterisation project which shows that the proposed development site lies within a wider area with good potential for below ground archaeological deposits. As no previous archaeological work has been undertaken within the proposed development site, but the Historic Environment Record contains information on adjacent areas that highlight the potential for multi-period remains to be present, a programme of archaeological work is considered to be justified, and in accordance with the aims and objectives of National and Local Plan Policies as set out above.
- 6.97 With regards to the Thorpe-le-Soken Conservation Area, as previously stated the frontage of the site is located within the conservation area boundary. The applicant has paid particular attention to the frontage of the site along Abbey Street to ensure a strong, high quality street frontage is provided and pick up on the irregular pattern of development along the street and through Thorpe-le-Soken. This approach ensures that the character and appearance of the conservation area is preserved and enhanced.
- 6.98 The materials used in these frontage properties respect the character of the conservation area, whilst precise details of the materials and details such as the brickwork (Flemish bond) can be controlled by condition. It is noted that the frontage properties are provided with chimneys to respect the character of the area, and Plot 40 is designed in a similar character and form to the Thorpe-le-Soken Police Station on Landermere Road. Also a low post and rail fence is indicated adjacent to the highway to keep the site's frontage as open as possible, and respond to existing boundary treatment within the conservation area.

- 6.99 It is noted that Elm Farmhouse, a Grade II listed building is located approx. 110 metres to the east of the application site. It is considered the proposed development will not adversely impact upon the setting of this listed building due to the distance involved, and the tree cover located between it and the site.
- 6.100 Based on the above it is considered that the development of this site can be achieved without harm to heritage assets, in keeping with the aims and objectives of National and Local Plan Policies as set out above.

### **Biodiversity**

- 6.101 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, where the benefits of the development 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.
- 6.102 No part of the development site or any land that it abuts has any type of statutory or non-statutory conservation designations.
- 6.103 In support of the application an Extended Phase 1 Habitat Survey prepared by D F Clark Bionomique Ltd has been submitted. The report concluded:
- There are no designated sites close to or adjacent the site which would be directly impacted by the development proposals.
  - There are no Biodiversity Action Plan Habitats present on site. The woodland areas present are not typical lowland woodland, rather they are groups of young trees which would become established as woodland if left undisturbed.
  - No further survey work is recommended in respect of habitats or plants.
  - The proposed development should include areas of soft landscaping.
  - The site is likely to support common and widespread invertebrate species therefore further survey is not recommended.
  - Whilst the piles of wood and debris scattered through the site are unlikely to have become colonised by stag beetles, if development is delayed for more than 5 years, it is recommended that wood at the bottom of the piles of debris are removed outside the period June to September to avoid the stag beetle pupation stage. Replacement stag beetle habitat should be created on site.
  - Invertebrate habitat should be included within the landscaping scheme of the new development. This should include areas of long tussock grass, and artificial hibernacula will need to be created as part of reptile and newt mitigation, and these will double as invertebrate habitat. Purpose built stag beetle piles should also be included.
  - A small population of common lizard were recorded on site.
  - It may be possible to provide sufficient reptile habitat as part of habitat mitigation for the great crested newts. A small, relatively isolated population of great crested newts is unlikely to require the full site area to survive, however a significant area of habitat needs to be retained/created/enhanced for newts, and the provision of new pond would help ensure the survival of this local population in the long term.
  - The site provides good nesting habitat for a range of bird species, both aerial and ground nesting.
  - Vegetation clearance should be undertaken during the period October to February.
  - It should be possible to provide new and replacement nesting habitat with installation of a range of artificial nest boxes.

- The mature boundary trees provide potential habitat for bats.
- Lighting across the site should be controlled to ensure that it does not pollute the surrounding environment.
- The site is unlikely to be a key foraging area for bats.
- The development could provide additional roosting habitat for bats either as bat boxes installed in the existing trees or on the outside of buildings.
- There is potential for hedgehog a UKBAP priority species to be present on site. Care should be taken during vegetation clearance.

6.104 Given that the Phase 1 Habitat Survey identified habitat for reptiles, and great crested newts, a separate Reptile and Great Crested Newt Survey was produced by D F Clark Bionomique Ltd.

6.105 This survey identified that the site supports a low breeding population of common lizard. Common lizards are legally protected under the Wildlife and Countryside Act 1981 (as amended). The proposed development is considered likely to have the following impacts:

- Potential harm to reptiles during vegetation clearance;
- Loss of reptile foraging habitat;
- Loss of hibernacula.

6.106 Likewise, the survey indicates that a small population of great crested newts (GCN) is present in the pond adjacent the western site boundary. GCN are legally protected under the Wildlife and Countryside Act 1981 (as amended), with their habitat also protected under the Conservation of Habitats and Species Regulations (2010). It was noted the adjacent residential gardens are likely to provide a number of newts with suitable foraging and hibernation habitat, however a significant proportion of the population are likely to be using the proposed development site to forage, hibernate and potentially disperse. Although there will be no direct impact on the adjacent pond as part of the development proposals, the proposed development is considered likely to have the following impacts:

- Potential harm to newts during vegetation clearance;
- Loss of newt foraging habitat;
- Loss of habitat which provides connectivity to other local ponds and isolation of the newt population;
- Loss of hibernacula.

6.107 This survey has identified mitigation measures to minimise and/or avoid impacts to these legally protected species.

6.108 A further GCN Assessment has been produced by Southern Ecological Solutions. This identifies that whereas development of the site will instigate the loss of high quality terrestrial habitat, most notably small patches of broad-leaved woodland, the layout integrates a newly created pond (SUDs feature) within a public open space of high quality terrestrial habitat to the north-east of the site. In addition the 0.4 hectares of allotments will maintain connections to the existing newt population within pond 1 to the west of the site, and will provide a buffer around these animals from residential development. Furthermore, it will provide links to further high quality newt habitat both on and off the site. The newly created pond will act as a stepping-stone between pond 1 and a pond to the north-east (pond 2), thus increasing overall pond connectivity in and around the site. The open space managed as scrub and long grass will be situated between the new pond and pond 2, and will aim to facilitate newt dispersal. A 5 metre wide green corridor is incorporated into the design layout. This should provide animals with the most direct connection between the ponds that is possible. Therefore, it is proposed that this corridor will run through the centre of the site, connecting with the allotments to form a continuous soft terrestrial habitat.

6.109 Based on the above it is considered that the development of this site in the manner proposed can be achieved without adverse harm to protected species, in keeping with the aims and objectives of National and Local Plan Policies as set out above, and mitigation measures and an ecological enhancement scheme can be secured by condition.

### **Arboriculture/Landscaping**

6.110 The proposals have been assessed by the Council's Tree and Landscape Officer who offers the following comments:

6.111 At the present time the application site is in a natural condition. Since the cessation of use as allotments the land has become populated with a range of tree species. Ground flora and brambles have also become well established and the site is currently becoming impenetrable because of suckering blackthorn and brambles.

6.112 Many of the trees on the land are covered by Tree Preservation Order TPO/10/09 Former Allotments, Frinton Road, Thorpe le Soken.

6.113 In order to assess the likely impact of the development proposal on the trees on the land the applicant has submitted a Tree Survey and Report that has been carried out in accordance with the recommendations contained in BS5837: 2012 Trees in relation to design, demolition and construction. The report accurately describes the health and condition of the trees and hedges on the land.

6.114 In order for the development proposal to be implemented it would be necessary for a number of trees covered by the TPO to be removed.

6.115 As far as possible the applicant appears to have designed the layout so as to retain the largest trees with the highest visual amenity value. The development would, by its very nature, result in a significant change to the appearance of the area although the retention of the best trees along with new planting should help to retain the character of the village. The tree report shows how the retained trees will be protected for the duration of the construction phase of any development for which consent may be granted

6.116 If consent is likely to be granted then it will be important to secure additional details of the indicative soft landscaping shown on the site layout plans. Although the site layout plan shows some new tree planting it would be desirable to secure some low level planting on the main road leading from Frinton Road. If practical the dwellings backing on to the proposed allotments could be set back by approximately 1m to create space for planting beds to the front of those dwellings.

6.117 With regard to the proposed amenity space and its future maintenance it will be important to ensure that measures are put in place to stop vehicles driving onto the land. This could be by means of a post and rail fence or by a line of individual posts. In order to ensure that the wildlife habitat is maintained appropriately it will be important to ensure that a simple management plan is put in place.

6.118 Taking into account the proposed future use of the open space, primarily as habitat for newts, consideration should be given to providing additional open space for more formal recreational use. It may be possible to secure funding to improve other recreational areas or open spaces within the locality.

6.119 Based on the above it is considered that the development of this site in the manner proposed can be achieved without significant harm to established existing trees and

hedgerows around the site, including those which are protected, in keeping with the aims and objectives of National and Local Plan Policies as set out above.

### **Drainage and Flood Risk**

- 6.120 The NPPF makes it clear that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, it should be made safe without increasing flood risk elsewhere. Accordingly, Saved Policy QL3 of the Tendring District Local Plan (2007) and PLA1 of the Tendring District Local Plan Proposed Submission Draft (2012) have been informed by these national policy requirements, the findings of Strategic Flood Risk Assessments (SFRA) and advice from the Environment Agency.
- 6.121 The applicants have submitted a Flood Risk Assessment and Drainage Strategy as part of the application which highlights the fact that with reference to the Environment Agency Flood Maps the site is located entirely within Zone 1 – at low risk of flooding.
- 6.122 With regards to the information submitted within the FRA, the Environment Agency had issued a holding objection. However, following the submission of further information on the proposed method of surface water storage and discharge, the EA have removed their objection to the proposal subject to a condition being imposed upon the planning permission requiring a detailed surface water drainage scheme for the site, based upon sustainable drainage principles.
- 6.123 It is noted from the FRA and Drainage Strategy that the frontage ditch along the south boundary adjoining Abbey Street will need to be culverted to accommodate buildings along the site frontage, the new estate road, a footpath along the site frontage, and pedestrian access to each property. This culverting will be in the form of a 600mm diameter pipe approx. 74 metres in length, with manholes provided for access at either end of the culvert to connect to the existing culverts. The EA have confirmed consent for culverting will need to be provided by Essex County Council, and therefore an informative will be added to the planning permission.
- 6.124 In addition, Anglian Water has commented upon the application, and confirms the foul drainage from the development is in the catchment of Clacton Holland Haven STW that will have available capacity for these flows. Furthermore, the sewerage system at present has available capacity for these flows.
- 6.125 Based on the details contained within the FRA and Drainage Strategy, it is considered that the application site could be developed in the manner proposed without any risk of flooding from or to the proposed development compliant with the aims and objectives of the NPPF as well as Local Plan Policies set out above.

### **Section 106 Obligations**

- 6.126 Saved 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. On a site of 1.5 hectares and above proposals for residential development are required to provide at least 10% of the gross site area as public open space.
- 6.127 This requirement is also set out in Policy PEO22 of the draft Local Plan, with 1.5 hectares revised to 10 hectares.



- 6.128 With regards to public open space contributions, the Public Experience dept has confirmed there is a deficiency of 2.43 hectares of play and formal open space in Thorpe-le-Soken, and any additional development will increase demand on already stretched play facilities. The only play area in the village is located at Lady Nelson Playing Fields. This play area is classified as a Local Equipped Area of Play but is limited in size and would struggle to cope with any additional need. There is also limited formal open space in Thorpe-le-Soken, creating a deficit of 0.88 hectares. Whilst the proposed development indicates the inclusion of an open space area (0.38 hectares) which will contribute to the significant lack of facilities in the area, it is felt a contribution towards play is justified. Negotiations with regards to the public open space financial contribution are on-going with officers, and if members are minded to approve the application, this would be subject to the satisfactory resolution of those negotiations.
- 6.129 Policy PEO10 of the draft Local Plan requires for developments of 10 or more dwellings, the Council will expect 25% of new dwellings to be made available to Tendring District Council to acquire at a discounted value for use as Council Housing, or as an alternative, the Council will accept a minimum 10% of new dwellings to be made available to the Council alongside a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 25% requirement. In this instance, the applicant has offered 4 x 2-bed units as affordable on site dwellings, which equates to 10% of the total unit build, with a remaining off-site contribution to be negotiated with the Council. The Council's Housing dept has confirmed that they are in agreement with this provision. Negotiations with regards to the off-site financial contribution are on-going with officers, and if members are minded to approve the application, this would be subject to the satisfactory resolution of those negotiations.
- 6.130 Essex County Council Education Services have confirmed the need for a financial contribution towards education provision. ECC confirm that there are sufficient early years and childcare and secondary school places to serve the needs of the development. However, ECC forecasts indicate a deficiency in primary school spaces. It is also advised that the secondary school (Tendring Technology College, Frinton Campus) is in excess of the statutory walking distance from the proposed development. ECC are obliged to provide free transport to the school, and therefore the development would result in long term costs to ECC. On this basis, ECC have also requested financial contributions towards the provision of school transport.
- 6.131 Policy KEY3 of the draft Local Plan requires the allotments to be transferred to Thorpe-le-Soken Parish Council for future management. The Parish Council has shown a willingness to take on the management of the allotments for the benefit of the community, but have asked questions with regards to whether the allotments would be cultivated already for occupation by plot holders, whether standing water pipes would be provided, and whether sheds and other amenities would be provided. It is normal practice to stipulate within the legal agreement that the allotments would be prepared for horticultural cultivation ready for occupation by plot holders, and a water supply would be provided. However, sheds and other amenities are not usually provided, as this is a non-essential item required to cultivate an allotment plot.
- 6.132 With regards to the 0.38 hectares of informal open space and wildlife habitat (including SUDS pond), the applicant has indicated a willingness for the Council to provide future management of these areas, and negotiations with regards to the financial contribution required for this management is on-going with officers, and if members are minded to approve the application, this would be subject to the satisfactory resolution of those negotiations.

6.133 The applicant has indicated a willingness to enter into a planning agreement to secure financial contributions required by the development, and these discussions are ongoing. Members are therefore requested that if there is a resolution to grant planning permission, that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development subject to within 6 months of the date of the Committee's resolution, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the matters of affordable housing provision; education provision; public open space provision; and transfer of allotments to Parish Council.

### **Other Issues**

6.134 Concerns have been raised with regards to impact on over-subscribed local amenities, such as schools and doctors surgeries. With regards to schools, Essex County Council has acknowledged a forecasted short fall in primary school places, therefore a financial contribution towards education provision will be sought.

6.135 With regards to doctor surgeries, the lack of such facilities are not considered to warrant a refusal of 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 doctor's surgeries in this particular instance should be left to market conditions.

6.136 With regards to section 106 monies sought by SusTrans, Policy SD7 of the draft Local Plan states planning permission will not be granted for new development unless the individual or cumulative impacts of development on infrastructure can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements.

6.137 The Council will use appropriate legal agreements or apply CIL to secure infrastructure including increased capacity for schools, green infrastructure and improvements to the transport network including environmental improvements to pedestrian spaces.

6.138 However to secure these the tests of CIL have to be applied. The legal tests for when you can use a s106 agreement are set out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended. The tests are:

1. Necessary to make the development acceptable in planning terms
2. Directly related to the development; and
3. Fairly and reasonably related in scale and kind to the development.

6.139 It is considered in this instance the requirement for improvements to the B1033 does not meet the 3 tests.

### **Background Paper.**

None.