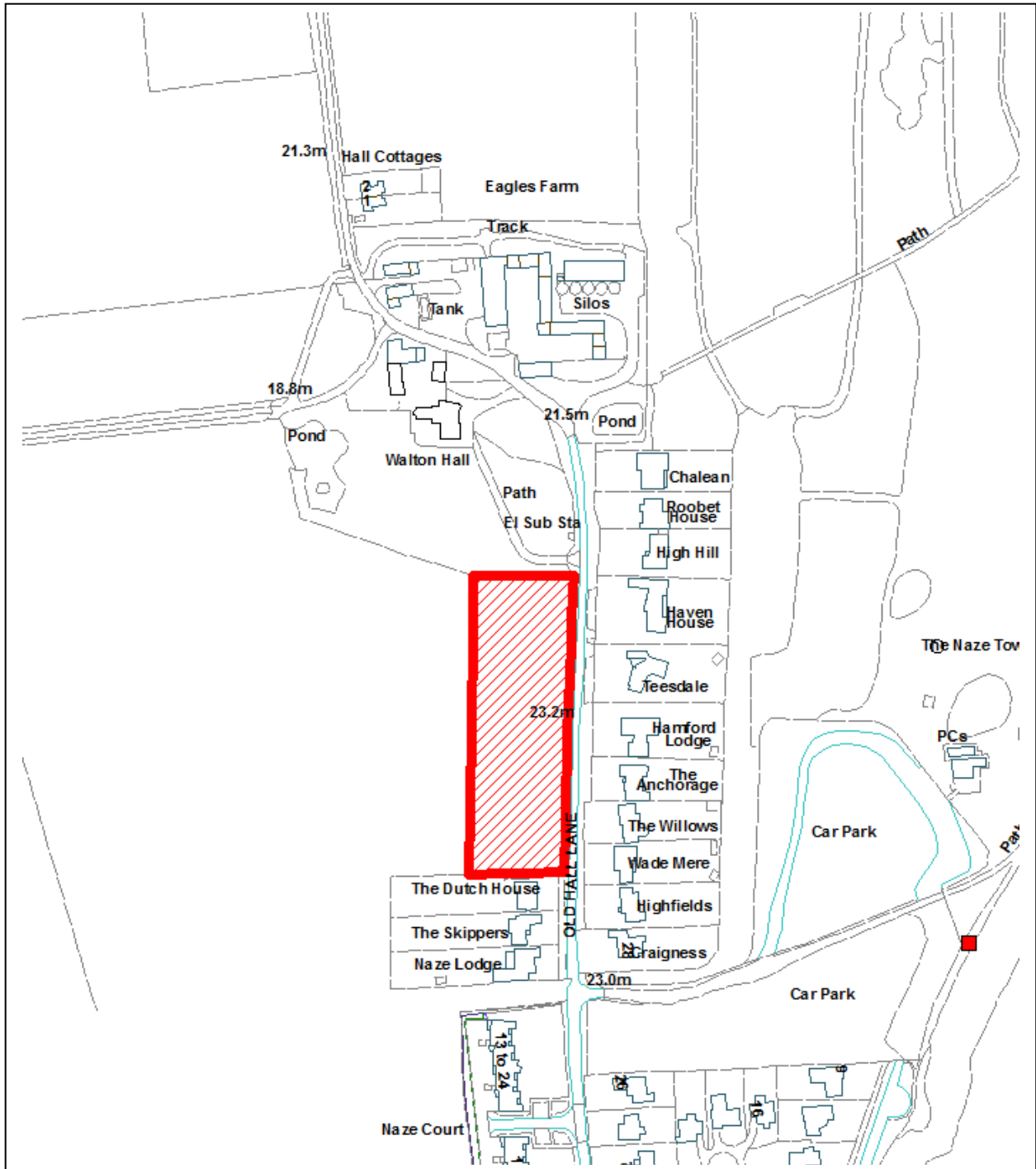


PLANNING COMMITTEE

3RD MARCH 2015

REPORT OF THE HEAD OF PLANNING

A.6 PLANNING APPLICATION - 14/01663/FUL - LAND AT OLD HALL LANE, WALTON-ON-THE-NAZE, CO14 8LF



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Application:	14/01663/FUL	Town / Parish: Frinton & Walton Town Council
Applicant:	Mr J Carrol - M.C.C Developments Ltd	
Address:	Land at Old Hall Lane, Walton-on-the-Naze, CO14 8LF	
Development:	Erection of five residential dwellings.	

1. Executive Summary

- 1.1 This application has been referred to Planning Committee by Councillor N. Turner.
- 1.2 This full application follows a refusal for the same scheme at outline stage in August 2014 (14/00723/OUT) for the erection of five detached dwellings. The reasons for refusal at outline stage remain pertinent, objecting to the principle of development within the Coastal Protection Belt.
- 1.3 Policies in the Local Plan regarding housing supply are not considered to be up to date and so the proposal needs to be considered against the presumption in favour of sustainable development, as set out in the National Planning Policy Framework (NPPF). In assessing the proposal against the NPPF, it is considered that the small economic benefit and neutral impact socially are significantly outweighed by material harm caused to the environment, by virtue of the loss of coastal protection belt, harm to landscape character and potential impact on the setting of an adjacent listed building. Other matters could be satisfactorily addressed through appropriate mitigation measures, which could be secured through planning conditions. However, on balance, the proposal would not constitute sustainable development and would be contrary to Paragraph 14 of NPPF and Policy SD1 of the emerging Local Plan, alongside other relevant policies that relate to the environment for the above reasons. On this occasion, the need to deliver new homes is not considered to outweigh the material harm development would cause to the environment. Accordingly, the application is recommended for refusal.

Recommendation: That the Head of Planning be authorised to refuse planning permission for the development, subject to no new issues being raised as a result of the advertisement for development affecting the setting of a listed building, which expires on 6th March 2015.

Reason for Refusal:

The National Planning Policy Framework requires development to be sustainable and improve the character and quality of an area and the way it functions. Where the Council cannot demonstrate an adequate supply of housing, paragraph 49 of the Framework advises that relevant development policies for the supply of housing should not be considered as up to date, and that the presumption in favour of sustainable development should apply to housing proposals. The Framework (at paragraph 14) identifies three dimensions to sustainable development: economic, social and environmental.

Whilst it can be argued that the proposal satisfies to some degree the economic and social limbs of sustainable development, the proposal conflicts with the environmental limb of sustainable development and the following policies in both the saved and emerging Local Plans for the following reasons.

Both the saved and emerging Local Plans state that new dwellings will not be permitted

outside the defined Settlement Development Boundary and Policy SD5 in the emerging Local Plan goes further to state that outside settlement development boundaries the Council will seek to protect and enhance the character and openness of the countryside by refusing planning permission for development on unallocated sites.

The site falls within the defined Coastal Protection Belt and contributes particularly to the open, coastal landscape character of the area. Policy EN3 of the saved plan and Policy PLA2 of the emerging plan state that within Coastal Protection Belts, the Council will seek to protect the open character of the undeveloped coastline and avoid development in vulnerable coastal areas by refusing planning permission for developments that do not have a compelling functional or critical operational requirement to be located there. Even where a compelling functional need is demonstrated, the development should not significantly harm the landscape character and quality of the undeveloped coastline. In this case there is no overriding justification for the development within the Coastal Protection Belt.

Furthermore, Policy EN1 in the saved Local Plan and Policy PLA5 in the emerging Local Plan state that the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced and any development which would significantly harm landscape character or quality will not be permitted. Development on this site would be contrary to the guidance contained in the Council's Landscape Character Assessment (November 2001), which advises that that the overall strategy for the landscape area within which the site falls should be to maintain this area as a rural landscape forming the setting to Hamford Water. Additionally, the highly visible slope crests and skylines are particularly sensitive to further built development. The development of this site would also result in further incremental linear ribbon development which would detrimentally alter the landscape and visual character of the area and is therefore contrary to the abovementioned policies.

There is potential for development to adversely affect the setting and therefore the significance of the adjacent Grade II Listed Navigation Tower at Walton Hall but there has been little information or evidence submitted with the application to enable this to be properly assessed. On this basis and in accordance with the precautionary approach contained within the NPPF and Policy EN23 in the saved Local Plan and Policies PLA6 and PLA8 in the emerging Local Plan, development should be refused where there is potential to adversely affect the setting of a designated heritage asset.

Whilst the Council has less than a 5-year supply of housing, it is not accepted that sites such as that subject of this application should be granted planning permission over other, potentially more suitable sites elsewhere, particularly where other policies indicate that development is not suitable. Furthermore, within the context of the housing needs of the District, the provision of five additional units is unlikely to amount to a substantial contribution.

It is therefore considered that the proposal does not meet the National Planning Policy Framework definition of sustainable development and conflicts with Local Plan policies by virtue of the overriding harm the proposal would cause to the coastal landscape character and open, undeveloped appearance of the site.

2. Planning Policy

NPPF National Planning Policy Framework

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
COM6	Provision of Recreational Open Space for New Residential Development
EN1	Landscape Character
EN3	Coastal Protection Belt
EN6	Biodiversity
EN6A	Protected Species
EN23	Development Within the Proximity of a Listed Building
EN29	Archaeology
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
PEO1	Housing Supply
PEO8	Aspirational Housing
PEO22	Green Infrastructure in New Residential Development
PLA2	Coastal Protection
PLA5	The Countryside Landscape
PLA6	The Historic Environment
PLA8	Listed Buildings

3. Relevant Planning History

FRW/9/54	Proposed erection of 20 houses	Refused
FRW/90/59	9 detached dwellings	Refused

FRW/127/60	Residential development	Refused	
FRW/264/73	Residential development	Refused	
TEN/150/77	Erection of 6 bungalows	Refused	
TEN/1453/79	Provision of 9 dwellings	Refused and appeal dismissed	
TEN/1648/80	Erection of detached dwellings	Refused and appeal dismissed	
TEC699/86	Eight bungalows	Refused and appeal dismissed	
14/00723/OUT	Erection of five residential dwellings.	Refused	22.08.2014
14/01663/FUL	Erection of five residential dwellings.	Current	

4. Consultations

Principal Tree &
Landscape Officer

The main body of the land is covered in Brambles and nettles. There are no trees or other significant vegetation in the main body of the land.

On the boundary with the highway there are several Hawthorn trees. They are good specimens with no obvious defects that make a reasonable contribution to the appearance of the area. Some of them have been allowed to develop into small trees and others have been regularly clipped so that they form a low mounded hedge.

None of larger Hawthorns merit protection by means of a Tree Preservation Order and the contribution that they make to the appearance of the area could be relatively easily replicated and improved upon by new planting.

Should consent be likely to be granted it will be necessary to secure further details of the soft landscaping shown on the site layout plan.

ECC Highways Dept

The Highway Authority observes that this section of Old Hall Lane is classified as a Private Road.

The Highway Authority does not wish to object to the proposals as submitted.

Informative: All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development

Management Team by email at
development.management@essexhighways.org or by post to:

SMO1 ' Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

Suffolk Coastal Heaths Project No comment received.

5. **Representations**

5.1 Councillor N. Turner has requested that this application be determined at Planning Committee for the following reasons:

- The proposed houses are in a wonderful position and are making full use of their intended location and meet the Council's approach to aspirational housing (by being large dwellings, of a good design, likely to attract professional people to the district).

5.2 Frinton and Walton Town Council objects to the application on the grounds that nothing has changed since the previous outline application and the development is still considered to be unsustainable.

5.3 In addition to the above, 12 letters of objection have been received which raise the following concerns:

- Development will destroy views over the Backwaters for the public and birdwatchers. This view should be maintained for the benefit of the public.
- The site is outside the Settlement Development Boundary and within the Coastal Protection Belt, so permission should be refused.
- This part of Old Hall Lane is a narrow, private road, with no drainage or lighting, that is not capable of accommodating any additional traffic. Vehicles can currently only be passed by encroaching on private property and the road is currently used by tankers to and from the sewage works. A detailed, professional road survey is required for a proper assessment of this proposal.
- The application attempts to refute the reasons why the previous outline application (14/00723/OUT) was refused. Most of the reasons for refusal were based on national legislation and conservation which still stand.
- Development would involve crossing a verge that has been maintained by residents for over 20 years.
- The proposed development does not satisfy the Government's aims for the provision of suitable, affordable accommodation to meet the current housing shortage.
- The reasons why previous applications were refused and appeals dismissed should be taken into consideration.
- There are other, more suitable sites elsewhere where new homes should be provided.
- References within the application material to an appeal decision made on land in Capel St Mary are irrelevant as land on the edge of an inland village has no comparison to the views across the Backwaters and importance of the land for wildlife.
- The development is not necessary.
- Construction would cause disruption while services are being installed.
- The Naze area should be protected for wildlife and in particular birds, which use this and the surrounding area to nest and feed on. The area is a highly sensitive location

and close to nationally and internationally designated sites. The impacts on the wider area are not fully explored or assessed.

- It is not known if there has been any survey to establish the presence or not of artefacts of archaeological interest.
- The claim that the site is sustainable is not agree as the walk to Walton town centre is a journey of 1.5 miles.
- The claim that the project will benefit the local economy is short term and is unlikely to produce long term benefits.
- Properties in Old Hall Lane are not easy to sell. It would be a shame if the area has five vacant properties whilst the natural area has been sacrificed.
- The site is adjacent to Walton Hall, which contains 3 Listed properties, the setting of which may be adversely affected by the proximity of the proposed development and will interfere with the open views of Walton Hall. The public benefit of the erection of 5 market dwellings is limited.
- The land is classed as agricultural land.
- Development would have a significant and detrimental effect on the character and appearance of the surrounding unspoilt countryside and sensitive landscape.
- Development would generate light and noise pollution.
- The site is directly on the skyline. Existing properties will be overshadowed by buildings which will decrease the amount of light in the living areas of existing properties.
- The proposal does not represent sustainable development and so should be refused.

6. Assessment

Existing Site

- 6.1 The site is situated to the west of the private road Old Hall Lane to the north of the town of Walton-on-the-Naze. It is a rectangular parcel of overgrown scrubland. It has an area of approximately 0.5 hectares and has a road frontage of approximately 136 metres. The land is occupied by overgrown brambles and nettles and there are no trees or other significant vegetation on the site. To the east on the opposite side of Old Hall Lane and to the south is existing residential development. Approximately 65m to the north of the site is the Grade II Listed Walton Hall and outbuildings. The site overlooks the internationally protected Hamford Water to the west.

Description of Proposal

- 6.2 This application seeks planning permission for the erection of five detached, storey dwellings, in linear form, each with double garages to the front and access to each dwelling off Old Hall Lane. The application is a resubmission of the previous outline application (14/00723/OUT), which was refused in 2014.

Appraisal

- 6.3 The Tendring District Local Plan (2007) is referred to as the saved plan and the Tendring District Local Plan: Proposed Submission Draft (2012) (as amended by the 2014 Pre-Submission Focussed Changes) is referred to as the emerging plan. The emerging plan has been through the first phase of public consultation and a series of 'focussed changes' have been made and also laced on public consultation. The amount of weight which can be afforded to each of its policies therefore varies depending upon the number of unresolved objections and the nature of those objections.

- 6.4 The main planning considerations are:

- Principle of development;

- Coastal protection belt;
- Impact on landscape character;
- Design and appearance and impact on neighbours amenities;
- Archaeological and historic issues;
- Wildlife; and,
- Other issues (highway issues, unilateral undertaking, five year supply of housing and planning history).

Principle of development

- 6.5 The National Planning Policy Framework (NPPF) at paragraph 14 sets out a presumption in favour of sustainable development. Although at paragraph 11 it also states that 'planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'. Outline planning permission for the same scheme was refused in 2014 and so this refusal is a material consideration. The reasons for refusal at outline stage remain pertinent, particularly as nothing regarding the principle of development about proposal has changed since the previous submission.
- 6.6 The National Planning Policy Framework requires development to be sustainable and improve the character and quality of an area and the way it functions. Where the Council cannot demonstrate an adequate supply of housing, paragraph 49 of the Framework advises that relevant development policies for the supply of housing should not be considered as up to date, and that the presumption in favour of sustainable development should apply to housing proposals. The Framework (at paragraph 14) identifies three dimensions to sustainable development: economic, social and environmental.
- 6.7 With regards to the economic limb of sustainable development, it is accepted that there is likely to be a small economic benefit through the construction of the five dwellings and the contribution their inhabitants are likely to make to the local economy.
- 6.8 In terms of its social impact, the site falls outside the defined Settlement Development Boundary within both the saved and emerging Local Plans. It is the policy of the Local Planning Authority, as contained within Policies QL1 and HG1 of the saved plan and Policies SD1, SD2 and SD5 of the emerging plan that proposals for new residential development outside the defined Settlement Development Boundary will not be permitted. However, it is accepted that whilst the proposal lies outside any development boundary it is considered that it is not an unsustainable location, as it is immediately adjacent to an urban area (albeit at the northern extremity of the urban area), which has a range of shops, services and facilities and lies on a regular bus route to Walton, Frinton and Clacton and so it can be argued that it satisfies, to some degree, the social limb of sustainable development.
- 6.9 Whilst it can be argued that the proposal satisfies to some degree the economic and social limbs of sustainable development, it is important to carefully consider the proposal in terms of the environmental limb of sustainable development and against relevant policies in both the saved and emerging Local Plans that relate to the environment.

Coastal protection belt

- 6.10 The site falls within the Coastal Protection Belt within both the saved and emerging Local Plans. Policy EN3 of the saved plan and PLA2 of the emerging plan state that within the Coastal Protection Belt, the Council will seek to protect the open character of the undeveloped coastline and avoid development in vulnerable coastal areas by refusing planning permission for developments that do not have a compelling functional or critical operational requirement to be located there. Even where a compelling functional need is

demonstrated, the development should not significantly harm the landscape character and quality of the undeveloped coastline. In this case, no compelling or functional need has been demonstrated to justify why the development should be approved. Whilst a lack of housing land or a five year supply of housing is an important material consideration, the lack of a five year supply of housing land is not considered to be a compelling or functional need in terms of the requirements of Policies EN3 and PLA2.

- 6.11 However, in considering this proposal pragmatically, it is acknowledged that the loss of the application site to residential development is unlikely to have a significant impact on the overall function and quality of the wider coastal protection belt area, by virtue of the size of the site, scale of development proposed and its urban fringe location. It is accepted that this reason on its own could be argued is not enough to fail the NPPF strand of environmental sustainability. However, the cumulative impact of this and the other environmental issues set out below renders the site unsuitable for residential development and therefore fails the environmental limb of sustainability in the NPPF.

Impact on landscape character

- 6.12 Policies QL9 and EN1 of the saved plan and Policy SD9 of the emerging plan seeks to ensure that development is appropriate to its locality and does not harm the appearance of the landscape. Furthermore, Policy EN3 of the saved plan and PLA2 of the emerging plan state that development should not significantly harm the landscape character and quality of the undeveloped coastline.
- 6.13 The Tendring District Landscape Character Assessment (November 2001) Volume One: Landscape Character Assessment and Landscape Guidelines defines the application site as being within a Coastal Slopes landscape (Hamford Coastal Slopes 3A). It states that this area is 'gently sloping land encircling, and forming the setting of, the open marshes of Hamford Water'. The Tendring District Landscape Character Assessment (November 2001) Volume Two: Guidance for Built Development advises that the overall strategy should be to maintain this area as a rural landscape forming the setting to Hamford Water. The highly visible slope crests and skylines are particularly sensitive to further built development.
- 6.14 Whilst it can be argued to some degree that, when simplistically viewed using aerial photography, the site appears to represent a sensible and logical extension of the built up area, in terms of impact on landscape character, it is considered that the development of the site would result in a loss of openness, eroding the character of the area resulting in a harmful impact on the surrounding area and so would not comply with Policy EN1 in the saved Local Plan and PLA5 in the emerging Local Plan. For this reason the proposed development is not supported.

Design and appearance and impact on neighbours amenities

- 6.15 Five detached new dwellings are being proposed that are described by the applicant as 'aspirational' by virtue of their size, scale and appearance. The proposed dwellings are detached two-storey dwellings, in linear form along Old Hall Lane, each with double garages to the front and access to each dwelling off Old Hall Lane. The design of the proposed properties is not considered to be in accordance with the emerging Local Plan definition of 'aspirational'. However, they would be in keeping with existing surrounding development in terms of size, layout, scale, amenity space and appearance and in this regard would comply with aspects of the design policies in both the saved and emerging Local Plan. However, as considered above, the development would result in the loss of an open area of land that currently enables uninterrupted views out across Hamford Water and which contributes to the wider landscape character of the area and in this regard would not be a positive contribution to the street scene nor would the proposal protect or enhance the

local distinctiveness of this area. For this reason the proposal does not comply with Policy QL9 in the saved Local Plan or SD9 in the emerging Local Plan.

- 6.16 It is noted that objections have been received about the potential impact of the proposed development on the amenity of neighbouring properties. The NPPF, at 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 saved plan 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 emerging plan carries forward the sentiments of these saved policies and states that 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. However, notwithstanding the concerns set out above, it is considered that the proposed development would not result in any significant adverse impact on the amenities of the neighbouring residents by virtue of the siting, height, scale and position of windows in the proposed dwellings or loss of light or overlooking.

Archaeological and historic issues

- 6.17 Essex County Council Archaeology were consulted on the previous outline application and at that time advised that as the site lies within a wider area with good potential for below ground archaeological deposits no development or preliminary ground works can commence until investigations have been carried out, by prior arrangement with, and to the requirements and satisfaction of, the Council. If the application was to be supported then this requirement could be secured by an appropriately worded planning condition.
- 6.18 The application site lies within close proximity to the Grade II Listed Navigation Tower at Walton Hall, to the north and it is considered that the application site forms part of the setting of this heritage asset by virtue of its contribution to the wider surrounding open landscape. Only a minimal heritage statement has been provided with the application. Without the necessary supporting information and evidence to justify the development it is not possible to properly assess the proposal in terms of potential impact on the setting and significance of this heritage asset. On this basis and in accordance with the NPPF and policies in both the saved and emerging Local Plans, the proposal should be refused.

Wildlife

- 6.19 Concern has been raised about the potential for the site to provide a habitat to wildlife and flora and fauna due to the site's proximity to the internationally protected Hamford Water and on this basis a Phase I Habitat Survey was requested. Upon inspection of this, it is considered that nature conservation is not a major issue and the site could be developed in a way that would not result in any adverse impact on the adjoining Hamford Water, subject to a number of precautionary measures being applied and further investigations being carried out prior to any development or clearance of the site.

Other issues

Highway issues

- 6.20 Objections have been received about the potential impact of development in terms of highway capacity and safety.
- 6.21 Essex County Council Highways have been consulted on the application but do not wish to object to the proposals as submitted but advise that all work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority.

- 6.22 Whilst it is accepted that the erection of five new dwellings will generate some additional traffic, this is unlikely to have a significant detrimental impact. The proposal is therefore considered to be acceptable in highways terms.
- 6.23 Essex County Council Parking Standards require that for a dwelling with 2 or more bedrooms a minimum of 2 off-street parking spaces are provided. The preferred bay size is 5.5 metres by 2.9 metres and if a garage is being relied on it should measure 7 metres by 3 metres. It is considered that there is sufficient space on the site to provide adequate off-street parking.

Unilateral undertaking

- 6.24 During the course of determining this planning application the Council has received legal advice relating to the requirement for a financial contribution towards the provision of new or improved public open space facilities under Saved Policy COM6 and draft Policy PEO22. In accordance with the Government response to the consultation on Planning Contributions the Council will no longer be seeking this financial contribution for sites of 10-units or fewer. The current proposal falls below this threshold and does not therefore require a unilateral undertaking.

Five year supply of housing

- 6.25 The applicant in support of the application states that the Council is unable to demonstrate a 5 year housing supply. Whilst there is a lack of a five year supply of housing in the district, this in itself is not enough to justify the loss of this site to development where there are clear policies that indicate development in this location is not suitable. Furthermore, five dwellings do not amount to a substantial contribution and the Council is able to identify more suitable land elsewhere in strategic locations to meet the objectively assessed need for housing (as demonstrated in the latest draft of the Strategic Housing Land Availability Assessment, which will inform the next version of the emerging Local Plan).

Planning history

- 6.26 It is also relevant to note that, contrary to the claim by the applicant that there is no relevant planning history apart from the recently dismissed outline application, there is further planning history on this site, with additional previous applications for residential development having been refused - including at appeal. The reasons for refusal in terms of the adverse impact of residential development on the environment remain relevant. Additionally, the site was promoted for inclusion within the Settlement Development Boundary during the preparation of the emerging new Local Plan to enable residential development but was rejected due to it being within the Coastal Protection Belt and because there is more suitable land elsewhere within the Frinton, Walton and Kirby Cross urban area where housing development would cause less harm and be located nearer to existing shops, services and facilities, to meet the objectively assessed housing need and deliver much needed new infrastructure to accompany the new housing development.

Conclusions

- 6.27 Therefore, in considering the three elements of sustainable development, it can be concluded that the small economic benefit and neutral impact socially are significantly outweighed by material harm caused to the environment. On this basis the proposal would not constitute sustainable development and would be contrary to Paragraph 14 of NPPF and Policy SD1 of the emerging Local Plan, alongside other relevant policies that relate to the environment for the above reasons. On this occasion, the need to deliver new homes is

not considered to outweigh the material harm development would cause to the environment. Accordingly, the application is recommended for refusal.

Background Papers

None.