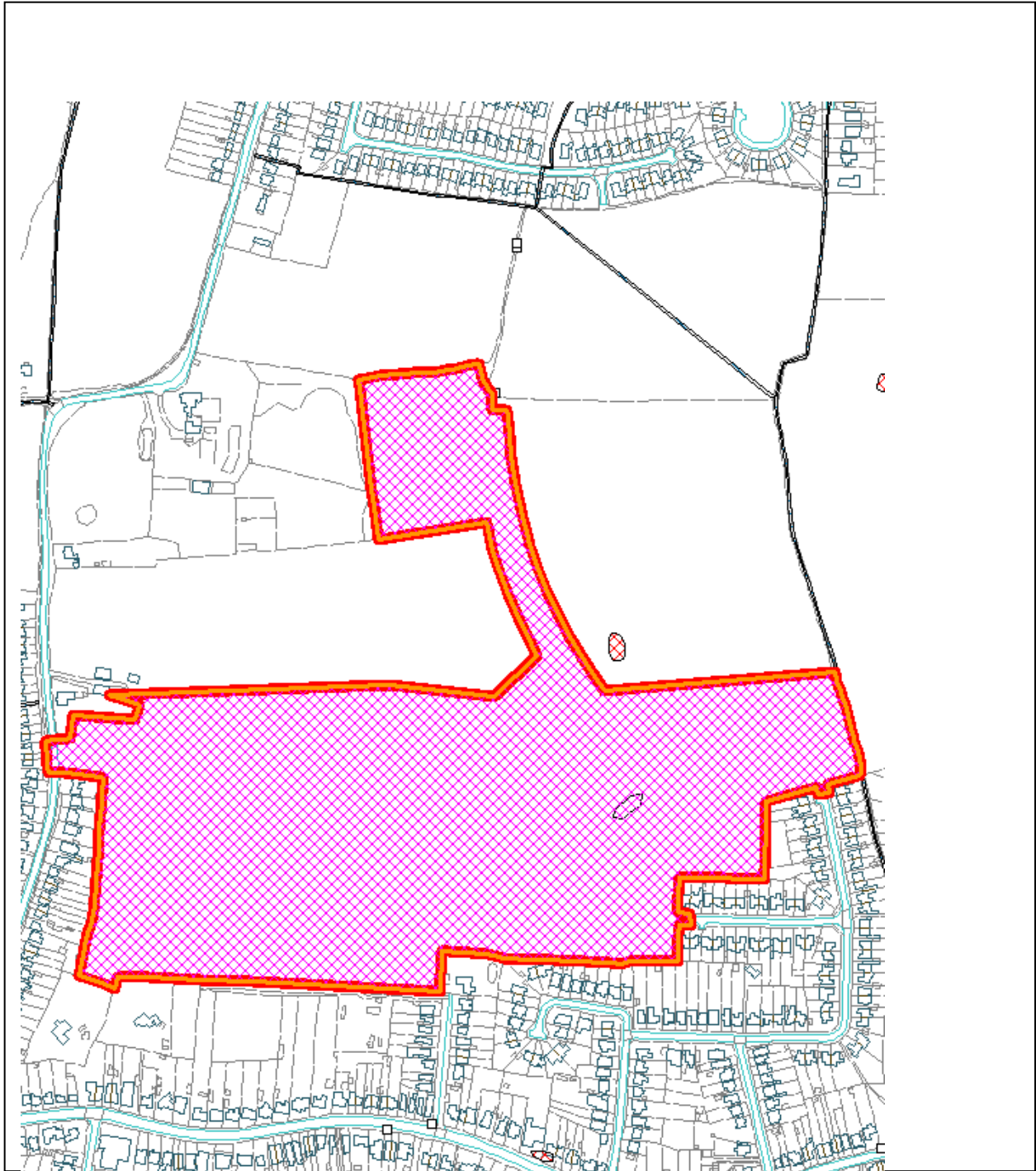


PLANNING COMMITTEE

17th November 2015

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATIONS - 15/01234/OUT - LAND EAST OF HALSTEAD ROAD, KIRBY CROSS, FRINTON ON SEA, CO13 0LR



Application:	15/01234/OUT	Town / Parish: Frinton & Walton Town Council
Applicant:	Welbeck Strategic Land II LLP & Elizabeth Clarke	
Address:	Land East of Halstead Road Kirby Cross CO13 0LR	
Development:	Erection of up to 240 dwellings with a community hub including either a 40-bed space care home (Class C2) or a healthcare facility (Class D1) together with access from Halstead Road, Woburn Avenue and Buckfast Avenue; a parking area for up to 30 vehicles; green infrastructure provision including children's play area, kick-about area, footpaths, structural landscaping and biodiversity enhancements; a sustainable drainage system including detention basin and swales and other related infrastructure and services provision.	

1. **Executive Summary**

- 1.1 This outline application with all matters reserved apart from access, proposes the erection of 240 dwellings, a community hub including either a 40-bed space care home or a healthcare facility, a parking area for up to 30 vehicles; green infrastructure provision including children's play area, kick-about area, footpaths, structural landscaping and biodiversity enhancements; a sustainable drainage system including detention basin and swales on land East of Halstead Road and north of Kirby Cross. This application is before Members as it is a departure from the adopted Development Plan.
- 1.2 The application site is located within a 'Local Green Gap' as defined within the 2007 adopted Plan. This impact upon a defined gap between Kirby Cross and Kirby-le-Soken must be weighted up against the significant lack of housing land within the District, emerging policy and the potential benefits such a scheme could deliver.
- 1.3 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply. The National Planning Policy Framework (NPPF) sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 1.4 Given the above, the current application should therefore be considered under the presumption in favour of "sustainable development". The NPPF requires the decision maker to grant planning permission, unless there are (a) adverse impacts and (b) such impacts would 'significantly and demonstrably' outweigh the benefits of the proposal.
- 1.5 The NPPF states that applications for planning permission which are contrary to an Adopted Local Plan should be refused unless material considerations indicate otherwise.
- 1.6 Whilst the application attracted a large number of objections from local residents and the Parish Council, no significant issues have been raised during the application process by technical consultees. With regard to these technical aspects of the application the following solutions have been agreed:
 - Housing – Request 18 gifted units on site.

- Trees and Landscaping – Condition attached to secure the soft landscaping shown on the indicative site layout plan
 - Open Space – Financial contribution required to facilitate LEAP within the site should be incorporated within the scheme.
 - Contaminated land – Conditions attached to secure a Lighting Survey as well as a full contaminated land initial phase 1 survey.
 - Anglian Water – No objection and Walton on the Naze Water Recycling Centre has available capacity to accommodate the current proposal.
 - With regard to foul sewerage a condition is attached requiring compliance with the agreed drainage strategy.
 - SuDS – Additional information has addressed ECC SuDS’s initial concerns and conditions have been attached to secure agreed measures.
 - Natural England – No objection and confirmed that the proposal will not have an impact on nearby European Protected sites. Recommend securing measures to enhance biodiversity of the site.
 - ECC Highways Authority - The Highway Authority raises no objection subject to a number of pre-commencement conditions as well as the some highway improvement works that would include a traffic signal control at the B1033/Halstead Road junction and segregated left turn lane at the B1033/81032 mini roundabout.
- 1.7 In addition new bus stops and/or upgrading of existing bus stops in Halstead Road and Frinton Road will be provided.
- 1.8 All the above stated works will be secured through a Section 106 Legal Agreement.
- Essex County Council Education Services – Financial contribution to be secured through Section 106 to address the shortfall across education sectors.
 - NHS England – Financial contribution to be secured through a S.106 Legal Agreement
- 1.9 Officers are of the view that current scheme would deliver significant benefits especially in addressing the Councils housing shortfall while also contributing to the provision of community facilities in the form of a 40 bed care home or health care facility as well as investment and regeneration in the area.
- 1.10 Notwithstanding the benefits of the scheme the balanced approach promoted by the NPPF also requires consideration of any potential harm as a result of development proposals. In this instance officers consider that the extent of potential harm would be limited to the impacts on the Green Gap designation, setting of the listed buildings in the vicinity of the site, surface water flooding, impacts on the character of the area and visual harm to the open countryside to the north of the site. However in officer’s opinion the applicant has provided compelling evidence as part of their submission which indicates that the proposal would not result in any adverse impacts to the receptors identified above.
- 1.11 This report concludes that there are no material conflicts with planning policy and since no material objections have been raised that outweigh the benefits of the proposed development the application is recommended for approval subject to a Section 106 legal agreement and a number of controlling conditions.

Recommendation: Approve Outline

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;
- Education;
- Public Open Space;
- Highways requirements; and
- Health.

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).

Conditions:

- Reserved Matters (Appearance, Landscaping, Layout, Scale)
- Standard 3 year time limit for submission of reserved matters application.
- Standard 2 year limit for commencement of development following approval of reserved matters.
- Details to accord with submitted parameter plans.
- Local recruitment strategy
- Method statement from Environmental Health
- Flood authority conditions
- Surface water drainage
- Landscaping condition
- Ground level condition
- Hours of working condition
- Recommendations of ecological assessment
- Wheel washing
- Highways condition:
 - a. Traffic light controlled junction
 - b. Upgrade to bus stops
 - c. Travel information packs
 - d. Monitoring fees
- Parking strategy to be submitted
- Earthworks to be agreed
- Detailed surface water drainage strategy
- Flood management during construction phase
- Maintenance for drainage strategy
- Maintenance logs of drainage management
- Biodiversity enhancements and mitigation measures in accordance with details contained in Environmental Assessment
- A materials pallet.
- Archaeological investigations.
- A construction method statements including but not limited to:
 - Routing of delivery vehicles and measures to control noise,

- Air pollution and avoiding discharges to watercourses/ditches.
- Hours of construction.
- Tree protection.
- Full details of the sustainable drainage system.
- Implementation of the improvements to the junction of Halstead Road and Frinton Road.
- No vehicular link between Halstead Road and Buckfast Avenue/Woburn Avenue.
- Travel Plan based upon the Draft Residential Travel Plan.
- Securing off-site planting on land owned by the applicant.
- Lighting survey
- External lighting details.
- Contaminated land phase 1 survey and a report
- Secure by Design standards.
- Bat Survey

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.

2. **Planning Policy**

National Policy:

National Planning Policy Framework (2012)

National Planning Practice Guidance (2014)

Local Plan Policy:

Adopted Local Plan Policies

Tendring District Local Plan (2007)

QL1 – Spatial Strategy

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 Use

HG1 – Housing Provision

HG4 – Affordable Housing in New Development

HG7 – Residential Densities

HG9 – Private Amenity Space

COM6 – Provision of Recreational Open Space for New Residential Development

COM19 – Contaminated Land

COM20 – Air Pollution/Air Quality

COM21 – Light Pollution

COM22 – Noise Pollution

COM23 – General Pollution

COM26 – Contributions to Education Provision

EN1 – Landscape Character

EN2 – Local Green Gaps

EN6 – Biodiversity

EN13 – Sustainable Drainage Systems

EN23 – Development Within the Proximity of a Listed Building

EN29 – Archaeology

TR1a – Development Affecting Highways

TR1 – Transport Assessment

TR2 – Travel Plans

TR3a – Provision for Walking

TR4 – Safeguarding and Improving Public Rights of Way

TR5 – Provision for Cycling

TR6 – Provision for Public Transport Use

TR7 – Vehicle Parking at New Development

Draft Local Plan Policy(ies):

Tendring District Local Plan Proposed Submission Draft (November 2012), as amended by the Tendring District Local Plan Pre-Submission Focussed Changes (January 2014).

SD1 – Presumption in Favour of Sustainable Development

SD2 – Urban Settlements

SD5 – Managing Growth

SD8 – Transport and Accessibility

SD9 – Design and New Development

PEO1 – Housing Supply

PEO2 – Housing Trajectory

PEO3 – Housing Density

PEO4 – Standards for New Housing

PEO5 – Housing Layout in Tending

PEO7 – Housing Choice

PEO22 – Green Infrastructure in New Residential Development

PLA1 – Development and Flood Risk

PLA4 – Nature Conservation and Geo-Diversity

PLA5 – The Countryside Landscape

PLA6 – The Historic Environment

Other guidance:

- Parking Standards Design and Good Practice Guide (2009)
- Essex Design Guide (2005)
- Urban Place Supplement (2007)
- Public Open Space SPD (2008)
- Schools Contributions from Residential Developments (2004)

3. Relevant Planning History

There are no relevant planning applications for the site.

4. Consultations

TDC Housing – Affordable housing provision would be required as part of the scheme. The Department indicated a preference for 18 gifted properties for social rent (this being 30% of the 25% affordable housing provision for the site).

TDC Building Control – No comments at this stage

TDC Trees and Landscaping – No objection to proposed development. Landscaping scheme required, further comments on specific trees on site.

TDC Regeneration – No comments received.

TDC Open Space – Contribution required and that given the lack of facilities in the area of the developments a LEAP should be incorporated within the scheme.

TDC Environmental Health – Require the submission of a Lighting Survey as well as a full contaminated land condition to carry out an initial phase 1 survey and a report for the site. This is due to the fact that historical mapping indicates that there appears to be several potentially contaminated areas within the site.

Essex Police – No objection to development, detailed design must be to Secure by Design standards.

National Grid – No comments received.

UK Power Networks – No comments received.

Essex County Fire Officer – No comments Received.

Anglian Water – No objection to proposed development. It is stated that there are no assets on site that would be affected by the current proposal. In addition the Walton on the Naze Water Recycling Centre has available capacity to accommodate the current proposal.

With regard to foul sewerage Anglian Water indicated that the proposed development without a feasible mitigation solution will lead to an unacceptable risk of flooding downstream. A condition is requested requiring compliance with the agreed drainage strategy.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets.

Essex Wildlife Trust – No comments received.

RSPB – Object due to lack of ecological information to demonstrate no adverse effect on the integrity of the Hamford Water Special Protection Area (SPA), Candidate Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI).

RSPB are however not a statutory consultee. Officers note that Natural England's consultation response confirms that this statutory consultee has no objection to the proposed development.

ECC SuDS Approval Board – Additional information has addressed ECC SuDS's initial concerns and the SuDS body now raise no objection to the proposed development subject to the imposition of a number of conditions.

Environment Agency – No comments received

ECC Archaeological Services – No comments received

Natural England – No objection and confirmed that the proposal will not have an impact on nearby European Protected sites. Recommend securing measures to enhance biodiversity of the site.

ECC Highways Authority - The Highway Authority raises no objection subject to a number of pre-commencement conditions and requirements for the legal agreement.

Essex County Council Education Services – Request Section 106 contributions to address the shortfall across education sectors (see Assessment below)

NHS England – No objection and has requested a financial contribution to be secured through a S.106 Legal Agreement

5. **Representations**

Frinton and Walton Town Council has objected to the application for the following reasons:

- The Town Council is against Outlined Planning Permission for a development of this size, the lack of details makes it impossible to give due consideration.
- Concern expressed in regard to the access for this development - Halstead Road being a narrow and busy road, with on-street parking, Buckfast and Woburn Avenues are both

unsuitable for access. All traffic would pass through Thorpe-le-Soken which already is over used and suffers from bottlenecks of traffic.

- Infrastructure including highways, doctors, schools and sewerage facilities for the area is already under strain, any development will only exasperate the situation.
- Would be detrimental to the quality of life to residents in the surrounding residential area.
- The loss of green wedge is unacceptable, Kirby Cross and Kirby-le-Soken are both individual and differing village communities and it is unacceptable to consider merging them. Need to seek to promote or reinforce local distinctiveness. The development needs to be appropriate to the locality.
- The proposed development fails SD5 and SD6 of the emerging local plan.
- Sustainability is not fair or proportionate.
- The proposed care home is unnecessary and there is no evidence that a health centre would be forthcoming - only that there may be a provision of land.
- It was noted that a number of Agencies had yet to respond to the consultation and that Essex County Council had indicated that the flood risk assessment was inadequate.
- This application is for only part of the site and there was deep concern that further housing applications would be made.

Cllr R Bucke also commented on the application and his comments can be summarised as follows:

- Outside village settlement boundary.
- Negative impact on local green wedge.
- Flood risk assessment not compliant.
- Loss of employment land on which to grow food for GB population and global refugees.
- Kirby Cross retail shops will not meet local demand - cars needed to access Frinton, Clacton and Colchester.
- Kirby Cross and Kirby-le-Soken highways inadequate and unsafe.
- Thorpe-le-Soken not capable of accommodating increased traffic flows from 220-1200 dwellings in Frinton & Walton.
- Walton sewage works not fit for purpose, and threatened by marine inundation within 2-5 years. Insufficient school places available.
- Lack of doctors and health services.
- Contrary to Council policies.

A total of 173 representations have been received for this application.

169 representations have been received objecting to the development. The issues raised are summarised below:

- Highway safety concerns
- Impact on Footpath running through the site
- Impact on countryside character
- Site outside development boundary
- Site not earmarked for development
- Impact on wildlife/trees - Inadequate wildlife survey
- Site is Green gap
- Identity of Kirby Cross and Kirby-le-Soken would be lost
- Lack of infrastructure, doctors, school places, employment, sewers, power cuts etc
- Lack of amenities such as shops, public open space
- Sustainable location - people would need to rely on private car
- Public transport limited
- Poor internet connection

- Archaeology interest in the site not considered
- Loss of good quality agricultural land
- Land set aside for open space could be developed on
- Over development
- Application inaccuracies - impact on highways understated
- Inadequate sewer/drainage facilities to cope with development
- Development will not create jobs for local people
- Impact on existing residential amenity
- Flood Risk Assessment inadequate
- No assessment on the impact of the setting of a listed building
- Layout is poor
- Cycling routes should be improved to promote this mode of transport
- Prevention of effluent into sensitive areas should be secured
- Suitable surface water drainage should be secured
- Open space confined to the north of the site
- Openness of the area would be lost due to density of the development
- Increased traffic
- Lack of services would increase pressure on existing
- Pressure on school due to lack of capacity
- Important wildlife habitat
- Encourage new business before new residential development
- Lack of employment opportunities locally
- Development would dominate countryside
- Development could increase flooding in areas adjacent to the site
- Layout does not consider sustainability issues
- Houses do not show energy efficiency measures

6. **Assessment**

Principle of development

- 6.1 The application site extends to about 18.86 hectares (46.6 acres) and forms part of a larger arable agricultural field situated to the north of Kirby Cross. Access to the site can be gained from Halstead Road, Woburn Avenue and Buckfast Avenue.
- 6.2 The site's southern boundary is currently defined by an extensive belt of trees within the gardens of properties fronting Frinton Road and the rear boundaries of properties fronting Chestnut Avenue, Elm Grove, Willow Avenue and Woburn Avenue.
- 6.3 The western boundary is principally defined by the rear gardens of properties fronting Buckfast Avenue.
- 6.4 The site is located outside of the defined Settlement Development Boundaries (SDBs) of Kirby Cross which is included as part of the 'Town' of Frinton and Walton as defined within the adopted (2007) Local Plan. Outside development boundaries, the Local Plan sought to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.5 Frinton/Walton (which includes Kirby Cross) is identified as a 'Town' within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a significant amount of growth can be supported. Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards these larger urban areas and to within development boundaries as defined within the Local Plan as mentioned above.
- 6.6 Chapter 6 of the 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.

- 6.7 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. This view has also been supported by the Planning Inspectorate in a number of recent appeal decisions for similar outline schemes.
- 6.8 It should be noted that the Council has published the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the 2014 focussed changes, but the document is yet to be submitted to the Secretary of State. Members are advised that until this document has been formally adopted the relevant emerging policies may be subject to change and when considered in relation to paragraph 216 of the NPPF they may be afforded only limited weight.
- 6.9 On this basis members should be aware that in the absence of up-to-date policies and a 5 year supply of housing land, development proposals cannot be refused solely on the basis that a site is outside the development boundary. 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.
- 6.10 Based on the above and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight and the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- economic,
 - social; and;
 - environmental roles.

Economic Sustainability

- 6.11 Officers consider that the proposal would contribute economically to the area, for example by providing custom for services such as shops and public houses within Kirby Cross, Frinton and Walton. It is also considered that the current scheme if approved would benefit employment locally through the utilisation of local services and tradesmen. It is also noted that the indicative scheme shows the provision of a 40 bed care home or a medical facility which would provide further employment opportunities locally. It is therefore considered that the scheme could reasonably be considered to meet the economic arm of sustainable development.
- 6.12 In support of the above members are advised that The Council has the ability to secure a Local Recruitment Scheme within a condition attached to this permission.

Social Sustainability

- 6.13 In terms of the social role it is noted that the site is not only well served by bus and rail services, but is also in close proximity to a primary school and playing fields. Further, Kirby Cross includes a number of local facilities including a community hall, convenience store, pharmacy, petrol filling station, employment area, garden centre and take-away food stores.

- 6.14 Within the wider area are other facilities such as a secondary school, healthcare facilities and supermarkets. As already noted, the bus and rail services provide ready access to the further services and employment opportunities. Overall, this site has good access to services, facilities and public transport.
- 6.15 In terms of local education facilities, the proposed development is located within reasonable travelling distance of Kirby Primary Academy, Hamford Primary Academy and Frinton-on-Sea Primary School. The development is also within the catchment area for Tendring Technology College. Contributions are required by Essex County Council for early years and childcare, primary education and secondary education.
- 6.16 In addition, it is noted that Frinton, Walton and Kirby Cross has been identified as one of six 'Urban Settlements' within the district in Policy SD2 of the draft Local Plan. These are the largest types of settlement, containing a wide range of local services and facilities with potential to accommodate the highest levels of growth in terms of homes and jobs. For these settlements, the draft Local Plan identifies opportunities for the enhancement of town 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 town and the site.
- 6.17 Bus services Nos. 8 and 107 operate along Halstead Road providing access to Walton, Frinton and Clacton. There are other bus services operating along Frinton Road (services Nos. 7, 9, 105, 109, 484, and 702) which provide access to the same destinations plus Colchester. Kirby Cross railway station is less than 1 kilometre from the site and operates rail services principally to Colchester and Walton but there are daily services to and from London Liverpool Street.
- 6.18 As identified earlier the indicative scheme shows the provision of a 40 bed care home or a medical facility. These would make a significant contribution to local community services which is seen as a benefit in terms of the social aspect of sustainable development.
- 6.19 Overall officers consider that the application site performs well in terms of the social role within the definition of sustainability.

Environmental Sustainability

- 6.20 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 is adjacent to the Settlement Development Boundary in the adopted 2007 Plan.
- 6.21 The indicative layout provided in support of the application shows that the proposed housing would generally be contained on 3 sides by existing residential development. On this basis officers are satisfied that the current scheme would be well related to the current settlement pattern of Kirby Cross.
- 6.22 With regard to landscape impact it is noted that the existing site comprises a large arable field which is divided into two by an open buffer strip. The southern and majority of the western boundary are bordered by rear gardens of properties along Frinton and Halstead Roads. The north-western boundary of the large field abuts the curtilage of Hill Farmhouse, and the remaining northern and eastern boundaries border open agricultural land.
- 6.23 The applicant has submitted a landscape assessment and design statement, which explores the impact of the development and explain the rationale behind the hard and soft landscape proposals for the site. This document sets out that it is the intention to minimise the landscape and visual effects of the proposal through providing improvements that would

serve to integrate the proposed development into the landscape.

- 6.24 The Council's Principle Tree and Landscape Officer was consulted on the content and conclusions of the landscape and visual appraisal. The officer confirmed in his response that if steps are taken to secure the soft landscaping shown on the indicative site layout plan then the proposed development would not result in material harm to the landscape character of the area. As stated previously a condition to this effect will be attached to any approval.
- 6.25 As stated a large proportion of the survey area is heavily-managed arable habitat and is generally considered to be of negligible nature conservation value. The semi-improved grassland habitat along with field margins, trees and stands of scrub provide some botanical diversity but these habitats are considered to be of no more than local level value. No habitats present meet the Essex Sites Local Wildlife Site (LWS) selection criteria.
- 6.26 The applicants have indicated that where feasible the development will provide enhancements for biodiversity within the scheme through the provision of species rich grassland and native species planting.
- 6.27 It is noted that to the north west and west of the application site are Hill Farmhouse and Penfold Cottages which are Grade II Listed Buildings. The applicants have submitted an Historic Environment Assessment in support of the application which considers the likely impacts of the current scheme on these heritage assets. Officers concur with the conclusion of the submitted document and conclude that the development would not materially impact on the setting of these Listed Buildings.
- 6.28 Based on the above it is considered that the development would be comparable with existing development in the locality without detracting from the setting of the Listed Buildings in the locality. Officers conclude that a more positive 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.
- 6.29 The detailed impact upon the Green Gap designation is considered elsewhere in this report.

Design and Density

- 6.30 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, indivisible from good planning, and should contribute positively to making places better for people. One of the core planning principles of The Framework as stated at paragraph 17 is to always seek to secure high quality design.
- 6.31 Policies QL9, QL10 and QL11 of the Saved Plan to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Policy SD9 of the Draft Plan, whilst of limited weight carries forward the sentiments of these saved policies stating that all new development must make a positive contribution to the quality of the local environment and protect or enhance local character.
- 6.32 The proposal comprises four principal land uses. These are:
- residential land including garden space, accesses and highways directly serving the housing (9.72 hectares);
 - open space (5.87 hectares) which will include a children's play area, informal kickabout area, and woodland planting;
 - a surface water attenuation area including a corridor to it from the south (2.61 hectares),
 - and a community hub at the main entrance (0.52 hectares).

- 6.33 There is also a small area for other highway infrastructure for the connections to and between the development areas.
- 6.34 The proposal is for up to 240 residential dwellings which will include affordable dwellings. Across the development as a whole an average indicative residential nett density of about 25 dwellings per hectare is achieved on land set aside for residential use within the indicative layout plan submitted. Officers are satisfied that at this nett density the scheme would reflect the character and existing development pattern prevalent in the area and would expect any reserved matters application to achieve this level of development. It is considered that a much higher density would, given the edge of settlement location of the site, result in a development with reduced areas of open space which serve to ease the development into the countryside beyond. In the absence of the areas of open space as indicated the development would be of a density that would be out of character and harmful to the open countryside to the north.
- 6.35 A capacity of 240 with a resultant density of 25 dwellings per hectare is considered acceptable in this location.

Design

- 6.36 This planning application is submitted in an outline form with all matters, except access, reserved for later consideration by the Council. The development's detailed design is one of these matters to be considered at 'reserved matters' stage.
- 6.37 This being said, the applicant has provided an illustrative Framework Plan which whilst only indicative demonstrates to officers that a suitable layout could be achieved on site. Officers are of the view that the locations of the built forms of development, open spaces and structural planting as set out in the Layout Plan represents the most natural extension of the existing pattern of development whilst still allowing a green buffer area to the north of the site assimilating the scheme into the Green Gap and the open countryside beyond.
- 6.38 In order to secure a degree of certainty with regard to layout of the current scheme officers have included a condition requiring the principles of the Framework Plan to be adhered to.

Landscape Impact & Visual Impact

- 6.39 The application site is not located in or close to any area of land defined as local, national or international protected sites, however there are some site specific characteristics to be considered.

Local Green Gap

- 6.40 The site is located within the Green Gap, and outside of the defined settlement limits of the village, as depicted in both adopted and emerging Local Plans. Policy EN2 of the Adopted Local Plan (2007) states that the primary purpose and function of the Green Gap is to maintain physical separation between different settlements or neighbourhoods and avoid developments that would result in them merging together and losing their individual identities.
- 6.41 These gaps have been carefully defined in specific locations where there is a genuine risk, due to the close proximity of settlements or neighbourhoods, that any development approved could undermine (in whole or in part) the remaining undeveloped gap and jeopardise those settlements individual identities.
- 6.42 A number of recent appeal decisions have provided officers with an up-to-date position from the Planning Inspectorate as to their thoughts on this local designation. The specific appeals

in question are those of 'Torcross Poultry Farm, 110 Harwich Road, Lt Clacton' and 'West Country House, Cherry Tree Avenue, Clacton-on-Sea'. The Inspector considered that the designation and its associated policy still hold weight in planning decisions and that consideration must therefore be given to these. The Inspector did say however that a balance could be made between protection of Green Gaps and the significant need for housing across the district. It was further considered that, whilst limited, some weight could be given to the proposed allocations within the 2012 and 2014 emerging Plans as these show the Councils direction of thought as to land designations. The Inspector also considered that the function of the policy should be upheld.

- 6.43 In this instance, it is considered that sufficient protection is given by an acceptable design solution which can take place on site. The applicant has demonstrated that a suitable gap can be provided to the north, north-east and east of the site which would keep the settlements of Kirby Cross and Kirby-le-Soken separate. Moreover, it is considered that the inclusion of an extensive green space within the development is a stronger protection in comparison to upholding the Local Green Gap policy as agricultural land alone.
- 6.44 Officers consider that the provision of a site for 240 dwellings would add significantly to the supply of housing land within the District and on balance weight must be given to this significant need.
- 6.45 A sustainable physical gap can still be maintained between Kirby Cross and Kirby-le-Soken. It is also considered that a balance must be made between the protection of the Green Gap and the significant need for housing throughout the District. In this instance it is considered that the need for housing land outweighs the Green Gap policy.

Neighbouring Amenity

- 6.46 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (2012) supports these objectives and states that 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.47 The application is in outline form with all matters reserved and Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.
- 6.48 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. 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.
- 6.49 In this instance, it is considered that the site is capable of accommodating up to 240 dwellings in a way that can accord with the above standards and would not result in any adverse impact on the amenities of neighbouring properties.

- 6.50 Concerns have been raised about the noise, disturbance and pollution that the development would cause both during the construction period but also in the longer-term once the development is established. Conditions would be applied to the development to minimise impacts if Members were mindful to approve the application.
- 6.51 Traffic, access and highway safety
- 6.52 The current application has been submitted in outline form with access to the site the only matter that has not been reserved and will be considered in full as part of the current scheme.
- 6.53 In order to gain a full understanding of the likely impacts of the current proposal on the highway network the applicants have submitted a Traffic Assessment (TA) in support of the application.
This document considers the proposed access points into the site from Halstead Road, Woburn Avenue and Buckfast Avenue as well as highway safety and capacity in the wider area.
- 6.54 The primary access into the site would be via Halstead Road, with Woburn Avenue and Buckfast Avenue providing access to only 28 of the proposed residential units. The proposed access onto Halstead Road would be positioned to the north of the existing residential area.
- 6.55 The proposed points of access via Buckfast Avenue and Woburn Avenue would serve 28 of the 240 dwellings, with no affordable units proposed with this section of the site. This phase of the site would also be a lower density to reflect the surrounding residential area. In addition to serving the lower density section of the site the creation of these access points would allow residents to access Frinton Road and pedestrians/cyclists to access the facilities and services within Kirby Cross.
- 6.56 Essex County Council Highways considered the content and findings of the TA and concluded that there would be no significant safety concerns with regard to the proposed access points from Halstead Road, Buckfast Avenue or Woburn Avenue.
- 6.57 The majority of representations from residents indicate serious concerns about the wider effects of additional vehicle movements on local traffic, highway capacity, pedestrian safety and access for larger vehicles (including the emergency services).
- 6.58 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.
- 6.59 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.
- 6.60 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.

6.61 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.

6.62 Policy QL10 of the Saved Plan states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. This requirement is also carried forward to Policy SD9 of the draft Local Plan.

6.63 Having considered the Transport Assessment in respect of highway safety and capacity the highway authority has raised no objection to the proposal subject to achieving the specifications and conditions set out in its representation which includes the requirement to provide the following:

- A site access off Halstead Road, Woburn Avenue and Buckfast Avenue with a new section of footway and 2nd dropped kerb/tactile paving crossing points in the vicinity of the Halstead Road site access.
- Traffic signal control at the B1033/Halstead Road junction and segregated left turn lane at the B1033/81032 mini roundabout. To include the re-location and upgrade to current Essex County Council specification of the bus stop currently located immediately east of the B1033/Halstead Road junction (eastbound stop).
- Improvements to existing bus services in Frinton Road (details shall be agreed with the Local Planning Authority prior to commencement of the development).
- New bus stops and/or upgrading of existing bus stops in Halstead Road and Frinton Road in the vicinity of its junction with Elm Grove and/or Willow Avenue. Stops shall be provided or upgraded to current Essex County Council specification.

6.64 These requirements would be secured through a Section 106 Legal Agreement which the applicants have indicated they would be willing to enter in too.

6.65 It is noted from the neighbour representations received that some concern has been expressed with regard to the proposed traffic lights at the B1033/Halstead Road junction that would be introduced as part of the current proposal.

6.66 Essex County Council Highways considered this element of the current scheme and provided the Council with the following feedback:

- *In terms of the existing situation at the B1032/B1033 mini roundabout, the TA sets out that the junction is currently approaching its operational capacity during the morning and afternoon peak hours.*

The TA also sets out that in terms of the existing situation at the B1033/Halstead Road mini roundabout, this junction also suffers from periods of congestion, particularly during the morning peak hour. During the afternoon however this situation is slightly improved.

Both junctions (as existing) have also been assessed for a future year of 2020, having included background growth and development traffic.

To successfully mitigate the likely traffic impact of the proposed development, it is proposed to remove the existing B1033/Halstead Road mini roundabout and provide traffic signals. This will help to regulate traffic movements on all approaches and reduce the level of

queuing on the B1033 Frinton Road, particularly during the morning peak. It will also provide controlled crossing facilities, which do not currently exist.

- 6.67 Officers conclude that the development, subject to the proposed conditions, would meet the requirements of Policy TR1a of the adopted Local Plan and the element of Policy SD8 in the emerging Local Plan relating to highway capacity and safety. It would also meet paragraph 32 of the NPPF which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.68 The Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garage, if being relied on to provide a parking space should measure 7 metres by 3 metres internally. Furthermore, development sites should provide unallocated visitor spaces at 0.25 spaces per residential unit. It is considered that the site is capable of accommodating this level of parking.
- 6.69 It is also noted that a number of representations from local residents raised concern with regard to the likely congestion that the proposed development would cause through the introduction of 240 new dwellings. The applicants have compiled traffic survey data along Halstead Road which indicates that Halstead Road (the access point to the largest section of the proposed development) is not affected by significant traffic congestion during peak periods.
- 6.70 In addition the applicants acknowledge that on-street parking by existing residents and during school drop-off/collection times can cause some congestion due to the difficulty of passing parked vehicles. In order to offer a solution to this problem the applicants have indicated an area for parking adjacent to Halstead Road. This facility would provide the opportunity for vehicles of non-residents which currently park along Halstead Road to park off-street in order to alleviate the congestion issue during school drop-off/collection times.
- 6.71 Based on the above it is considered that the proposed development can provide safe and adequate means of access to the site whilst the scheme could also comply with the aims and objectives of the NPPF as well as Local Plan Policies with regard to highway safety and parking requirements.

Biodiversity

- 6.72 A number of representations have raised concerns about the potential loss of wildlife resulting from the proposed development.
- 6.73 Policies within Chapter 6 of the Tendring District Local Plan (2007) and Policy PLA4 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended seek to ensure that where development is likely to harm nature conservation or geo-diversity interests, planning permission will only be granted in exceptional circumstances. The benefits of the development should clearly outweigh the harm caused and where appropriate mitigation measures must be incorporated into the development to the satisfaction of Natural England and other relevant Authorities

Ecological Designations

- 6.74 Three statutory designated sites have been identified between 1.4km and 2.3km's from the application site. These are:
- Hamford Water SPA/cSAC/SSSI/Ramsar located approximately 1.4km north of the site,
 - Holland Haven Marshes SSSI is located approximately 2.3km south of the site, and
 - Pedlars Wood LNR a privately-owned ancient woodland situated 1.6km east of the site on the road between Frinton and Walton.

- 6.75 The Ecological Assessment (EA) and Habitats Regulations Assessment completed in support of the application concluded that there will be no likely significant effect on these assets as a result of the proposed scheme.
- 6.76 Although non-statutory designated sites do not receive statutory protection, they do receive policy protection (as “Local Sites”), as set out in the National Planning Policy Framework (NPPF). In this regard Members are advised that the site is not covered by any non-statutory nature conservation designations and there are no non-statutory sites within 1km of the site boundary.
- 6.77 Hollandhall Wood is the nearest Local Wildlife Site and is located 1.3km south of the application site and separated from it by privately-owned land the B1033 and the railway line. Based on the fact that there is no direct or indirect access to Hollandhall Wood either by car or on foot it is considered that the current development proposal is unlikely to impact on the integrity of the site.
- 6.78 Natural England raised no objection to the scheme and indicated that they were satisfied that the proposed development is not likely to have a significant effect on this designated site, so long as the green infrastructure proposed in the design (amounting to 5.77ha. >30%) is designed and managed to attract local residents and divert at least a proportion of their open space needs away from the sensitive wildlife interest at Hamford Water. This request will be secured by condition should members be minded to grant approval for the current scheme.

Habitats

- 6.79 A large proportion of the survey area is heavily-managed arable habitat and is generally considered to be of negligible nature conservation value. The semi-improved grassland habitat along with field margins, trees and stands of scrub provide some botanical diversity but these habitats are considered to be of no more than local level value. No habitats present meet the Essex Sites Local Wildlife Site (LWS) selection criteria.
- 6.80 The applicants have indicated that where feasible the development will provide enhancements for biodiversity within the scheme through the provision of species rich grassland and native species planting.

Protected Species

- **Badgers**

- 6.81 No evidence of badger activity (including setts) was recorded on site or in the immediate vicinity during the survey.

- **Bats**

- 6.82 The submitted EA indicates that the boundary scrub, hedgerows and trees are considered to be foraging and commuting habitat for relatively low numbers of a range of bat species (particularly the northern boundaries). The submitted details indicate that in order to minimise potential effects on these foraging/commuting routes these features will be retained and buffered where possible in the development proposals.
- 6.83 The EA also suggests that where gaps are to be created to facilitate secondary access roads from Buckfast Avenue and Woburn Avenue these gaps should be mitigated for by the planting of native tree species on either side of the road to reduce impacts to foraging bats. This planting will be secured through a condition when landscaping details are submitted as part of the reserved matters application.

- 6.84 It is further proposed to introduce habitat improvements through the planting of new hedgerows and scrubs within the open space north of the residential area and further north within the surface water attenuation area while existing gaps will be filled with native species.
- 6.85 The area of semi-improved grassland that is to be lost to the west to facilitate the main access route from Halstead Road will be compensated for through the provision of species-rich grassland in the open space.
- 6.86 It is concluded that these measures would provide an overall increased and improved foraging area for bats.
- 6.87 As part of the reserved matters application officers would suggest that a Bat Survey as well as details of a sensitive lighting scheme should be provided which could then be secured by condition to ensure minimal light spill from the site. It is considered that such a condition would need to set out that:
- During the construction period no lighting is present at night;
 - Lighting is directed to where it is needed, to avoid light spillage, particularly along the hedgerows and the new habitats to be created;
 - Lighting that is incorporated into the development design will be low pressure sodium lights as light is emitted at one wavelength and as such has a low attraction to insects;
 - Any upward lighting will be avoided.

Reptiles

- 6.88 The EA concludes that the majority of the site being arable land that has been extensively utilised for this purpose lacks the structural diversity required by reptile species for shelter, foraging and dispersal, comprising predominantly of arable habitat.
- 6.89 It is noted that whilst the semi-improved grassland to the west of the site along with the site boundary did provide some structural diversity, this habitat is however considered unlikely to support a significant population of reptiles or form a significant part of their range and the site is considered relatively isolated from more suitable habitat for reptile species.

Great Crested Newts (GCN)

- 6.90 It was found that the site contains no aquatic habitat suitable to support breeding amphibians (including GCN) were identified within the site and on this basis it is concluded that the proposed development would not affect an aquatic population of GCN's.
- 6.91 Whilst no GCN are expected to be present on the site aquatic surveys were also completed off-site. These confirmed the presence of a small population of GCN in a pond 10m from site.
- 6.92 Access was however refused to a further three ponds within 500m of the site boundary and as a result no GCN presence/absence surveys could be undertaken. Notwithstanding the foregoing the EA states that the GCN population that was recorded would be unlikely to utilise those ponds that could not be surveyed due to the migratory distance between them.
- 6.93 The applicants indicated that a 'Reasonable Avoidance Method Statement' will be carried out during the construction process in order assess those ponds that could not be accessed and that in event that GCN are identified all operations will be stopped immediately and clearance of the area will be completed under a Natural England development licence.
- 6.94 With regard to the GCN population that was found the applicants have stated that they would be seeking a licence from Natural England to legitimise development of the site.

- 6.95 As a statutory consultee Natural England were consulted on the contents, conclusions and recommendations of the EA submitted. In their response Natural England raised no objection to the proposed development.

Birds

- 6.96 The most notable bird species recorded on site is the Skylark. Officers agree with the findings of the Environmental Assessment that whilst the proposed development would result in the loss of open arable habitat from the site, which has the potential to impact upon a small number of skylark breeding territories, it is likely that new territories would be found in the wider landscape.
- 6.97 It is further considered that other bird species found to be using the site are expected to benefit from the green infrastructure that would be introduced as part of the current scheme. As stated previously officers would suggest that it would be necessary to achieve the extent of green infrastructure shown on the illustrative drawings. Whilst it is accepted that landscaping is a matter reserved for later consideration officers are of the view that given the sensitive location of the site that it would be reasonable to attach a condition that would secure the details as presented in this outline application as part of any reserved matters application.
- 6.98 With regard to wintering birds the Environmental Assessment concluded that no significant populations were found to be present on the application site.
- 6.99 Whilst it is noted that the RSPB objected to the scheme due to lack of ecological information to demonstrate no adverse effect on the integrity of the Hamford Water Special Protection Area (SPA), Candidate Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) Natural England as a statutory consultee raised no objection to the application and considered that the proposed development is unlikely to have a significant effect on the relevant interest features of the nearby Hamford Water Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site and can therefore be screened out from any requirement for further assessment under the Habitats Regulations.
- 6.100 In addition Natural England were also satisfied that the proposed development is not likely to have a significant effect on the designated sites, providing the green infrastructure proposed in the design (amounting to 5.77ha. >30%) is designed and managed to attract local residents and divert at least a proportion of their open space needs away from the sensitive wildlife interest at Hamford Water. This request will be secured by condition should members be minded to grant approval for the current scheme.
- 6.101 Given the site's previous use and proximity to the wider countryside to the north, and in accordance with paragraph 118 of the NPPF, this application provides opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. Such ecological enhancement opportunities will be secured by condition.

Landscape/Arboricultural issues

- 6.102 Policy PLA5 of the Tendring District Local Plan Proposed Submission Draft (2012) sets out that the countryside in the district is one of its key assets both in terms of tourism and the living environment of local residents. The district is diverse in its landscape character and appearance and certain areas are particularly sensitive to development and change.
- 6.103 In this regard, the applicant notes the existing site comprises a large arable field which is divided into two by an open buffer strip. The southern and majority of the western boundary

are bordered by rear gardens of properties along Frinton and Halstead Roads. The north-western boundary of the large field abuts the curtilage of Hill Farmhouse, and the remaining northern and eastern boundaries border open agricultural land.

- 6.104 The applicant has submitted a landscape assessment and design statement, which explores the impact of the development and explain the rationale behind the hard and soft landscape proposals for the site. This document sets out that it is the intention to minimise the landscape and visual effects of the proposal through providing improvements that would serve to integrate the proposed development into the landscape. These proposals include:
- retention and enhancement of existing trees and hedgerows to the boundaries;
 - reinforcement of the off-site hedgerow to the north;
 - new woodland planting to comprise locally indigenous species, designed to provide a strong landscape framework and setting for the new development, integrating the proposed development into the surrounding countryside, reducing the visual impact on local views;
 - the reinstatement of former hedgerow boundaries, reinforcing landscape character;
 - protection of local residents views, so far as this is possible;
 - the design and orientation of buildings, particularly to create a soft or visually 'crumbly' edge along the northerly edge;
 - variation in the location and height of buildings, to soften and break up views of roofs;
 - the provision of a new public open space across the northern edge of the site, creating new public access, protecting the gap between Kirby Cross and Kirby-le-Soken;
 - the use of directional downlighting in order to minimise surplus light spill and careful location and alignment of light sources to minimise night-time visual effects; and
 - a landscape management programme which is to be agreed with the local authority
- 6.105 The Council's Principle Tree and Landscape Officer was consulted on the content and conclusions of the landscape and visual appraisal. The officer confirmed in his response that if steps are taken to secure the soft landscaping shown on the indicative site layout plan then the proposed development would not result in material harm to the landscape character of the area. As stated previously a condition to this effect will be attached to any approval.
- 6.106 The applicants also submitted a tree report in support of the application. In response to this report the Councils Principle Tree and Landscape Officer raised no objection and confirmed that the tree report accurately describes the condition of the trees on the land. The officer also confirmed that there are no trees on the application site or adjacent land that have such amenity value that they merit protection by means of a tree preservation order.
- 6.107 The officer suggested that should planning permission be granted then details of soft landscaping for both the residential part of the site and the open space should be secured as a reserved matter.
- 6.108 In accordance with the Principle Tree and Landscape Officer's suggestion a condition will be attached to secure details of the soft landscaping shown on the indicative site layout plan and to secure compliance with the requirements of the tree report.
- 6.109 Based on the above, it is considered the proposals would not have a significant adverse impact on the character and appearance of the area, or any protected trees.

Impact on Heritage Assets

- 6.110 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.

- 6.111 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 PLA8 of the draft Local Plan states development affecting a listed building or its setting will only be permitted where it, amongst other things, does not have an unacceptable effect on the special architectural or historic character and appearance of the building or its setting. These sentiments are echoed in policies EN23 and EN29 of the 2007 Local Plan.
- 6.112 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.
- 6.113 As a result relevant policies seek to protect or enhance the district's historic assets but also make best use of its rich heritage to help promote the district as a visitor destination and an attractive place to live and work.
- 6.114 In order to comply with National and Local Plan Policies the applicants have submitted a Historic Environment Assessment to support the application. This assessment identifies that the site is of limited archaeological interest and there are no indications that there are any remains below ground of national significance that would need to be preserved in-situ. Notwithstanding the forgoing a condition will be attached to any approval requiring that archaeological investigation is carried out prior to the commencement of any development on the site.
- 6.115 In addition to below ground assets the submitted Historic Environment Assessment also had regard to the listed buildings in the vicinity of the application site. These properties are Hill Farmhouse and Penfold Cottages. These properties would however be some distance from the built area being proposed and would in addition be well screened from the site. On this basis officers agree with the conclusion reached in the Historic Environment Assessment which states that the proposed development would cause less than substantial harm to the significance of these designated heritage assets. Whilst it is accepted that there could be a minimal effect on the setting of Hill Farmhouse this would be so minor as not to outweigh the public benefit of the proposed development.
- 6.116 Based on the above it is considered that the proposed development of the site can be achieved in accordance with the aims and objectives of National and Local Plan Policies.

Drainage and Flood Risk

- 6.117 The National Planning Policy Framework 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, 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.
- 6.118 The applicants have submitted a Flood Risk Assessment as part of the application which highlights the fact that with reference to the Environment Agency Flood Maps indicate that the site is located within Flood Zone 1.
- 6.119 Whilst the application is in outline form with all matters apart from access reserved for later consideration the applicants have had regard to the fact that the site is greater than one

hectare in size and on this basis submitted a flood risk assessment, including surface water drainage strategy has been prepared and submitted in support of the application.

- 6.120 The Flood Risk Assessment (FRA) considers flooding from various sources as required by Local Plan Policies for development sites exceeding 1 hectare in size. In this regard the following sources were identified:

Fluvial Flooding

The Flood Map indicates that the Site is located within Flood Zone 1 (Low Risk).

Coastal Flooding

Officers consider that the submitted documents accurately reflect that the site is located approximately 2.5km south of The Wade and 4km to the west of the North Sea coastline. For this area the relevant Flood Map indicates that the site is at low risk of coastal flooding.

Groundwater Flooding

There are no recorded events of ground water flooding affecting the Site.

Flooding from Overland Flood Flow (Pluvial Flooding)

It is noted from the submitted documents that there is some risk of this type of flooding within the site. The applicants have however indicated to prevent risk to properties any area prone to this type of flooding has been excluded of any development.

Flooding from Artificial Drainage Systems

- 6.121 Whilst there are public sewers located in the vicinity of the site Anglian Water have not indicated any flooding risk from these. risk is low.
- 6.122 Anglian water in their consultation response indicated that the foul drainage from this development is in the catchment of Walton on the Naze Water Recycling Centre that will have available capacity for these flows.
- 6.123 It was also stated that with regard to foul sewerage the development will lead to an unacceptable risk of flooding downstream. However a development impact assessment has been prepared in consultation with Anglian Water to determine a feasible mitigation solution that would be secured by condition.
- 6.124 With regard to surface water disposal Anglian Water indicated that the proposed method of surface water management does not relate to Anglian Water operated assets. It was suggested that the Council should seek the advice of the Lead Local Flood Authority. In response to their consultation Essex County Council SUDS Authority have stated that the updated Flood Risk Assessment dated October 2015 and associated documents which accompanied the planning application is acceptable and that this body has no objection to the current scheme. It was further suggested that a number of conditions be attached to any approval to ensure that the proposed development meets the requirements of the National Planning Policy Framework. These can be summarised as follows:
- Detailed surface water drainage scheme for the site, based on the revised FRA and Drainage strategy
 - Scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works
 - Maintenance Plan detailing the maintenance arrangements with regard to surface water drainage system
 - Responsible body for maintenance of the surface water drainage system must record yearly logs of maintenance in accordance with approved Maintenance Plan.

Flooding from Infrastructure Failure

There are no dams or canals within the locality; therefore, the flood risk is low.

Historical Flooding

- 6.125 There is no historical evidence of flooding affecting the Site.
- 6.126 With regard surface water flooding Essex County Council SuDS indicated that the proposed development will meet the requirements of the National Planning Policy Framework if the measures as detailed in the FRA and associated documents submitted in support of the application implemented. On this basis officers have attached a number of conditions to secure these submitted details.
- 6.127 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.

Education

- 6.128 Local Plan Policies QL12 of the Tendring District Local Plan (2007) and SD7 of the Tendring District Local Plan Proposed Submission Draft (2012) sets out that the Council will seek planning obligations wherever they are fairly and reasonably related in scale and kind to the proposed development.
- 6.129 Essex County Council Education Services have confirmed that according to the latest available information the Essex County Council's Early Years and Childcare places in the Holland and Kirby ward are currently operating at over 80% capacity. Based on the number of dwellings proposed and additional 24 places would be required to support the development.
- 6.130 This proposed development is located within reasonable travelling distance of These schools have a combined overall capacity of 670 places in permanent accommodation. These schools overall are forecast to have a surplus of 12 places by the school year 2018-19, As there are a number of other proposed housing developments in the area a contribution for additional primary school places is, therefore, likely to be requested.
- 6.131 At secondary level Tendring Technology College is forecast to have a surplus of 15 places by the school year 2018-19. As there are a number of other proposed housing developments in the area a contribution for additional secondary school places is, therefore, likely to be requested.
- 6.132 Based on the above requirements it is concluded that contributions should be secured through a Section 106 agreement for early years and childcare, primary and secondary education to the order of:
- Early Years and childcare - £337,235.
 - Primary School - £985,932.
 - Secondary School – £998,514.

Affordable Housing

- 6.133 Saved Policy HG4 requires up to 40% of dwellings to be affordable housing on sites of 15 or more dwellings in urban settlements (with a population of 3,000 or more) and on sites of 5 or more dwellings in rural settlements (with a population less than 3,000). The National Planning Policy Framework requires Councils to consider economic viability when it applies its policies and the Council's own 2013 viability evidence in support of the Local Plan demonstrates that 40% affordable housing is unlikely to be viable in Tendring and that between 10% and 25% (as contained within emerging Policy PEO10) is more realistic. The thresholds under Saved Policy HG4 will therefore be applied but the percentage will be between 10% and 25% as detailed under emerging Policy PEO10.

- 6.134 In this instance, the applicant has offered to seek to achieve the maximum affordable housing provision possible. This is however still a matter of negotiation between officers and the applicant as officers recognise that affordable housing provision will vary dependent on the viability of the development.
- 6.135 The outcome of the viability appraisal submitted in support of the application would be reported to members on the night should negotiations in this regard be concluded.

Health

- 6.136 NHS England have stated that a recent review of GP services identified capacity issues throughout Essex with one GP practice within Tendring likely to be impacted on by the proposed development. NHS England have therefore requested a financial contribution to be secured through a Section 106 agreement which would go towards increasing capital funding to increase capacity within the GP catchment area.
- 6.137 The capital cost calculation performed by NHS England indicates that £93,520 would be required to create the additional floor space required to mitigate for the increased capacity that would be generated by the proposed development.
- 6.138 The applicant has indicated a willingness to enter into a legal 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 above matters.

7. Conclusion

- 7.1 The application site is situated adjacent to the built-up area of Kirby Cross which forms part of the town or Urban Settlement of Wilton/Frinton/Kirby Cross which is recognised in planning policies as a location for growth. The current scheme results in a natural extension of the existing pattern of urban development whilst also providing a secured green buffer into the Green Gap further to the north ensuring the retention of a visual and physical gap between Kirby Cross and Kirby-le- Soken which avoids any perceived coalescence.
- 7.2 Officers are of the view that current scheme would deliver significant benefits especially in addressing the Councils housing shortfall while also contributing to the provision of community facilities in the form of a 40 bed care home or health care facility as well as investment and regeneration in the area.
- 7.3 Notwithstanding the benefits of the scheme the balanced approach promoted by the NPPF also requires consideration of any potential harm as a result of development proposals. In this instance officers considered that the extent of potential harm would be limited to the impacts on the Green Gap designation, setting of the listed buildings in the vicinity of the site, surface water flooding, impacts on the character of the area and visual harm to the open countryside to the north of the site. However in officer's opinion the applicant has provided compelling evidence as part of their submission which indicates that the proposal would not result in any adverse impacts to the receptors identified above.
- 7.4 Based on the above it is concluded that there are no material conflicts with planning policy and since no material objections have been raised that outweigh the benefits of the proposed development the application is recommended for approval subject to a Section 106 legal agreement and a number of controlling conditions.

Background Papers
None