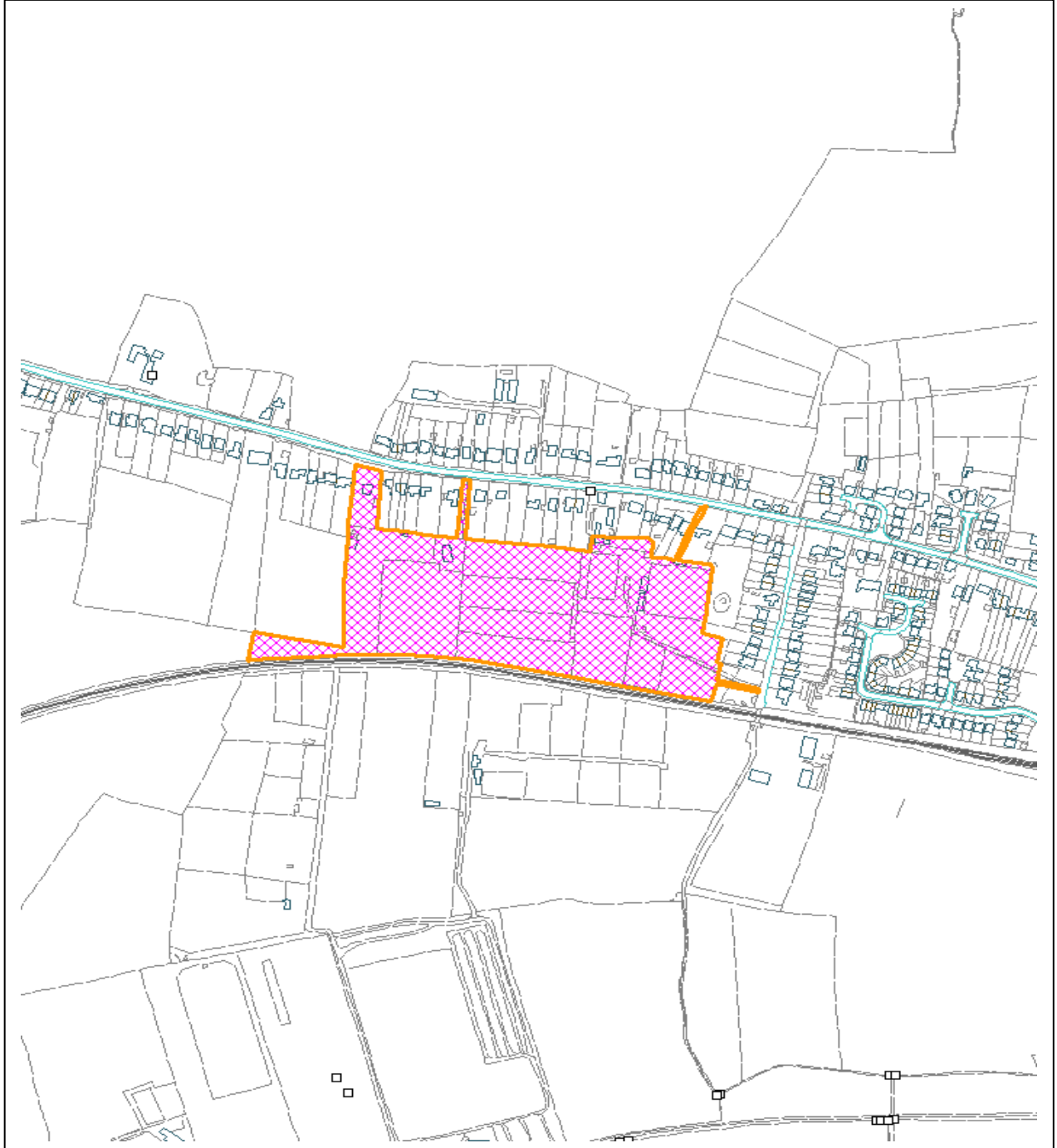


PLANNING COMMITTEE

22 MARCH 2016

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION - 15/01710/OUT - 171 THORPE ROAD AND LAND TO REAR OF 121-183 THORPE ROAD AND 4-20 CHAPEL LANE, KIRBY CROSS, FRINTON ON SEA, CO13 0NH



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application:	15/01710/OUT	Town / Parish: Frinton and Walton Town Council
Applicant:	EMP Kirby Limited - Mr M Pickett	
Address:	171 Thorpe Road and Land to rear of 121-183 Thorpe Road and 4-20 Chapel Lane, Kirby Cross, Frinton On Sea, CO13 0NH	
Development:	Demolition of one dwelling and outline application for up to 110 no. residential units with all matters reserved except for access.	

1. Executive Summary

- 1.1 The application is an outline application, approval is being sought only for the principle of developing up to 110 dwellings, with all other matters reserved (apart from access) for approval through a detailed application at a later date. The applicant has however submitted supporting information that demonstrates how a residential scheme with parking and garages could be achieved on the site in question.
- 1.2 The site comprises 4.8 hectares of land located on the south side of Thorpe Road on the western edge of the settlement of Kirby Cross and includes land at 171 Thorpe Road and land to rear of 121-183 Thorpe Road and 4-20 Chapel Lane.
- 1.3 The site is not allocated for housing or mixed use development and lies outside the settlement development boundary for Frinton, Walton and Kirby Cross as shown in both the adopted and the emerging Local Plan. Because the Council is currently unable to identify a five-year supply of deliverable housing sites along with a 20% 'buffer', as required by the National Planning Policy Framework, the Council's housing policies are considered out of date and Officers have had to consider the application on its merits in line with the government's 'presumption in favour of sustainable development'.
- 1.4 Kirby Cross along with Frinton and Walton is classified as a Town or Urban Settlement in the adopted and emerging Local Plans respectively in recognition of existing infrastructure and facilities and, in principle, offering sustainable locations for growth.
- 1.5 The proposal has attracted 50 objections from residents and is also opposed by Frinton and Walton Town Council. Local concerns relate mainly to the density of the development, access onto Thorpe Road, site being outside development boundary, erosion of the green gap, backland nature of the site and site being unsustainable in terms of the impact on local services and infrastructure. There are no outstanding objections however from any of the statutory consultees or other technical bodies.
- 1.6 The site forms part of the Local Green Gap, as designated in the adopted Local Plan. However, unlike many sites within green gaps, this land is well contained within the landscape by surrounding development, the visual and landscape impact of the development is expected to be low and the development does not raise concerns about the possible merging of settlements or loss of individual character. The site has low to intermediate ecological value and development can take place without any overriding impact on important trees. On balance, Officers consider that the adverse impacts of development would not significantly or demonstrably outweigh the benefits, which is a key test of the National Planning Policy Framework.

- 1.7 Officers consider that the proposal satisfies the three dimensions of 'sustainable development' as set out in national planning policy (economic, social and environmental) and the application is therefore recommended for approval subject to the satisfactory completion of a Section 106 planning obligation to secure affordable housing and financial contributions toward educational facilities, health provision and play space to make the development acceptable, as well as a number of planning conditions.

Recommendation: Approve

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Within 6 (six) 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 relevant):
- On-site Council Housing/Affordable Housing;
 - Education contribution;
 - Health contribution; and
 - Open space/play provision and future maintenance.
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the conditions and detailed wording thereof as the Head of Planning in their discretion considers appropriate).
- (i) Conditions:
1. Standard 3 year time limit for submission of reserved matters application.
 2. Standard 2 year limit for commencement of development following approval of reserved matters.
 3. Details of appearance, access, layout, scale and landscaping (the reserved matters).
 4. Layout and phasing plan/programme.
 5. Development to contain up to (but no more than) 110 dwellings.
 6. Highways conditions (as recommended by the Highway Authority).
 7. Environmental Health conditions.
 8. Surface water drainage scheme, maintenance plan and monitoring arrangements.
 9. Hard and soft landscaping plan/implementation.
 10. Ecological mitigation/tree protection measures.
 11. Details of lighting, materials and refuse storage/collection points.
 12. Details of water, energy and resource efficiency measures.
 13. Broadband connection.
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

National Planning Policy Framework (NPPF)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.

- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused - unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
- an economic role;
 - a social role; and
 - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.5 Paragraph 187 of the NPPF states *“Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”*.

Local Plan Policy

- 2.6 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the 'development plan' unless material considerations indicate otherwise. In the case of Tendring the development plan consist of the following:

Tendring District Local Plan (Adopted November 2007) - as 'saved' through a Direction from the Secretary of State. Relevant policies include:

QL1: Spatial Strategy

Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries.

QL2: Promoting Transport Choice

Requires developments to be located and designed to avoid reliance on the use of the private car.

QL3: Minimising and Managing Flood Risk

Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

QL9: Design of New Development

Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs

Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts

Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

QL12: Planning Obligations

States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

HG1: Housing Provision

Sets out the strategy for delivering new homes to meet the need up to 2011 (which is now out of date and needs replacing through the new Local Plan).

HG3: Residential Development Within Defined Settlements

Supports appropriate residential developments within the settlement development boundaries of the district's towns and villages.

HG3a: Mixed Communities

Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

HG4: Affordable Housing in New Developments

Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type

Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities

Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that have long since been superseded by the NPPF.

COM1: Access For All

Requires developments and buildings within them to be accessible by a range of transport modes and by people of all abilities.

COM2: Community Safety

Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM6: Provision of Recreational Open Space for New Residential Developments

Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.

COM21: Light Pollution

Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM22: Noise Pollution

Requires that 'noise sensitive' developments including housing are located away from sources of noise and that any noise pollution is mitigated wherever possible.

COM23: General Pollution

States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM26: Contributions to Education Provision

Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, toward the provision of additional school places.

COM29: Utilities

Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal

Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character

Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

EN2: Local Green Gaps

Seeks to keep areas designated as Local Green Gaps open and essentially free of development in order to prevent the coalescence of settlements and to protect their rural setting.

EN4: Protection of the Best and Most Versatile Agricultural Land

Seeks to ensure that where agricultural land is needed for development, poorer quality land is used as priority over higher quality land.

EN6: Biodiversity

Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species

Ensures protected species including badgers are not adversely impacted by new development.

EN6b: Habitat Creation

Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN12: Design and Access Statements

Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems

Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN23: Development within the Proximity of a Listed Building

States that proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted.

TR1a: Development Affecting Highways

Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR1: Transport Assessment

Requires Transport Assessments to be undertaken for major developments and requires materially adverse impacts on the transport system to be reduced to an acceptable level.

TR3a: Provision for Walking

Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use

Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development

Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

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

Relevant policies include

SD1: Presumption in Favour of Sustainable Development

Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SD2: Urban Settlements

Identifies Frinton, Walton and Kirby Cross as an 'Urban Settlement' and one of the settlements that will be a focus for future growth.

SD5: Managing Growth

Seeks to direct new development to sites within settlement development boundaries.

SD7: Securing Facilities and Infrastructure

Requires developments to address their individual or cumulative infrastructure impacts and states that the Council will use planning obligations and/or CIL (when it is in place), where necessary, to ensure this happens.

SD8: Transport and Accessibility

Requires the transport implications of development to be considered and appropriately addressed.

SD9: Design of New Development

Sets out the criteria against which the design of new development will be judged.

SD10: Sustainable Construction

Requires development to maximise measures to reduce energy consumption and reduce carbon emissions and other forms of pollution both during construction and during use.

PRO2: Improving the Telecommunications Network

Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

PRO3: Improving Education and Skills

Requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PEO1: Housing Supply

Sets out the proposed growth in new housing for the district, but is subject to considerable change to ensure compliance with the NPPF, as being overseen by the new Local Plan Committee.

PEO3: Housing Density

Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

PEO4: Standards for New Housing

Sets out proposed minimum standards for the internal floor area and gardens for new homes. Internal floor standards have however now been superseded by national standards to be imposed through building regulations.

PEO5: Housing Layout in Tendring

Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour, ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

PEO7: Housing Choice

Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

PEO9: Family Housing

Promotes the construction of family homes within new housing developments.

PEO10: Council Housing

Requires up to 25% of new homes on large development sites to be made available to the Council, at a discounted price, for use as Council Housing.

PEO19: Green Infrastructure

Requires new developments to contribute, where possible, toward the district's green infrastructure network.

PEO20: Playing Pitches and Outdoor Sports Facilities

Requires new developments to contribute where possible to the district's provision of playing pitches and outdoor sports facilities.

PEO22: Green Infrastructure in New Residential Developments

Requires larger residential developments to provide a minimum 10% of land as open space with financial contributions toward off-site provision required from smaller sites.

PEO23: Children's Play Areas

Requires new children's play areas as an integral part of residential and mixed-use developments.

PLA 1: Development and Flood Risk

Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

PLA3: Water Conservation, Drainage and Sewerage

Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PLA4: Nature Conservation and Geo-Diversity

Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

PLA5: The Countryside Landscape

Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

PLA6: The Historic Environment

Highlights the importance of the historic environment in planning decisions, including Listed Buildings, in line with the NPPF.

PLA8: Listed Buildings

Sets out the circumstances in which developments affecting Listed Buildings (including their setting) will be permitted.

Other Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

Essex Design Guide (2005)

Urban Place Supplement (2007)

3. Relevant Planning History

None.

4. Consultations

Natural England

- 4.1 No objections with regard to statutory nature conservation sites. This application is in close proximity to the Holland Haven Marshes SSSI.
- 4.2 If undertaken in accordance with the details submitted, the development is not likely to have a significant effect on these designated areas and an Appropriate Assessment will not be required. Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the Holland Haven Marshes SSSI has been notified.

- 4.3 The Council should apply Natural England's standing advice on protected species to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.
- 4.4 This application may provide 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. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application.
- 4.5 This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature.

Anglian Water

- 4.6 Records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.
- 4.7 The foul drainage from this development in in the catchment of Walton on the Naze Water Recycling Centre that will have available capacity for these flows.
- 4.8 A drainage strategy will need to be prepared in consultation with Anglian Water to determine mitigation measures. We request a condition requiring the drainage strategy covering the issue(s) to be agreed. The preferred method of surface water disposal would be to a sustainable drainage system (SUDS) with connection to sewer seen as the last option.
- 4.9 Anglian Water recommends conditions relating to the submission and approval of a surface water management strategy prior to any drainage works with no hard-standing areas to be constructed until works have been carried out in accordance with this strategy.

Essex County Council Highways

- 4.10 From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following conditions:
1. Prior to commencement of the development a construction management plan, to include but shall not be limited to details of wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan.
 2. No occupation of the development shall take place until the following have been provided or completed:
 - a) A priority junction off Thorpe Road to provide access to the proposal site. Junction to include but shall not be limited to 6 metre kerbed radii, 2no. 2 metre wide footways, 5.5 metre wide carriageway and 90 x 2.4 x 90 metre clear to ground visibility splay.
 - b) Upgrading of the two bus stops in Thorpe Road, west of its junction with Chapel Lane, to current Essex County Council specification (details shall be agreed with the Local Planning Authority prior to commencement of the development).
 - c) Residential Travel Information Packs.

Essex County Council Education Authority

- 4.11 A development of this size can be expected to generate the need for up to 10 early years and childcare (EY&C) places, 33 primary school, and 22 secondary school places.
- 4.12 The proposed development is located within the Holland & Kirby Ward. According to Essex County Council's childcare sufficiency data, there is sufficient early years and childcare places available to accommodate children from this development.
- 4.13 This proposed development is located within reasonable travelling distance of Kirby Primary Academy Hamford Primary Academy and Frinton-on-Sea Primary School which are part of the Frinton and Walton Primary Forecast group set out in the Essex County Council's document 'Commissioning School Places in Essex'. These schools have a combined overall capacity of 670 places in permanent accommodation. These schools are forecast to have an overall deficit of permanent places by the school year 2019-20. The demand generated by this development would be in addition to this demand. A project to provide sufficient school capacity is thereby, proposed that would add 33 places to one of the primary school named above. The estimated cost of the project is £401,676 at April 2015 costs. This equates to £12,172 per place and so, based on demand generated by this proposal set out above, a developer contribution of £401,676 index linked to April 2015, is sought to mitigate the impact on local primary school provision.
- 4.14 With regards to secondary education needs, this proposed development is located within the priority admissions area for Tendring Technology College. The College has a capacity of 1,980 places. The college is forecast to have a surplus of 32 places by the school year 2019-20, sufficient to accommodate all of the secondary aged pupils that would be generated by this proposed development. However, the County council is aware that, in addition to this site, there are a number of other outline planning applications have also been submitted for sites in this area which, if approved, could result in a deficit of places at the College. Prior to the implementation of the revised Community Infrastructure Levy Regulations on the 6th April 2015 the County Council would have sought a developer contribution from this proposed development for additional secondary school places.
- 4.15 However, the implementation of the revised Regulations now restrict the pooling of contributions for a specific item of infrastructure, such as the expansion of a school, to contributions from five separate planning obligations. Under these changed circumstances the County Council has decided not to request a contribution for the provision of additional secondary school places from this proposed development. This is because the scale of this development is relatively small and the impact on pupil places is limited. Seeking contributions from a number of small developments might, in the future, preclude the County Council from seeking a contribution from a larger development, should there already be 5 contributions allocated to a particular project to add school places in the area.
- 4.16 Having reviewed the proximity of the site to the nearest primary and secondary schools, Essex County Council will not be seeking a school transport contribution.
- 4.17 However the developer should ensure that safe and direct walking/cycling routes are available to the nearest schools. In view of the above, I request on behalf of Essex County Council that any permission for this development is granted subject to a section 106 agreement to mitigate its impact on primary education.

Essex County Council SUDS Team

- 4.18 Having reviewed the flood risk documents which accompanied the planning application, we do not object to the planning application subject to the imposition of conditions to require:
- a detailed surface water drainage scheme;

- a scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during the construction phase;
- a maintenance plan detailing the maintenance arrangements and responsibilities for different elements of the surface water drainage system, and;
- a log of maintenance to be updated annually.

TDC Principal Tree & Landscape Officer

- 4.19 The main body of the application site is set to grass, divided into paddocks and is being used for the keeping of horses. There are several groups of stables and associated buildings on the land.
- 4.20 The site contains several mature trees on and close to site boundaries and the hedgerows within the site contain some large trees. In order to show the potential impact of the development proposal on the trees the applicant has submitted a detailed tree survey and report. The information provided is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. The tree report accurately describes the health and condition of the trees and identifies those that would need to be removed in order to facilitate the development proposal.
- 4.21 In the main the planning application identifies the retention of most of the most important trees on the land namely those running across the proposed open space in the centre of the land and those on and close to the perimeter of the open space in the south western corner. The most important trees identified for removal as a consequence of the development are those on or close to the rear boundary of 10 Chapel Lane. The trees are 76 - 81 using the numbering system in the tree report.
- 4.22 As the trees in this location are at risk of removal because of the planning application a new tree preservation order has been made ref: TPO/16/01 to ensure that they are retained and protected for the duration of the construction phase of any consent that may be granted and after any planning permission has been implemented.
- 4.23 The trees in the vicinity of the centrally situated open space numbered 50, 53,55,57 and 60 are also covered by the TPO to ensure that adequate measures are taken to protect them during the construction process of any planning permission that may be granted and to deal with possible post development pressures.
- 4.24 The trees on the perimeter of the open space in the south eastern corner of the application site are not threatened by the development proposal and are therefore not included in the tree preservation order.
- 4.25 The removal of the other internal trees and hedgerows will not have a significant impact on the area or its use and enjoyment by the public. Therefore none of these trees merit formal protection.
- 4.26 If planning permission were to be granted then details of the indicative soft landscaping of the site as shown on the Illustrative Layout Plan should be secured as a reserved matter

TDC Environmental Health

- 4.27 Pollution and Environmental Control are satisfied with the submitted noise report, however, if Outline Permission is approved, further information will be required in relation to Demolition and Construction Method Statements and lighting schemes.

TDC Housing Department

- 4.28 There is currently a demand for housing in the Kirby Cross area and on the housing register, there are currently 79 households seeking a 2 bedroom property, 42 seeking a 3 bedroom property and 18 seeking a 4 bedroom property. At present, the Housing Department is deciding what its priorities should be for development and acquisitions and there is a possibility that there may not be funding available to purchase the units even at a discounted value. To this end and as an alternative, the Housing Department would be prepared to accept 8 gifted property at the site (this being 30% of the 27 units that should be available to purchase).

TDC Open Space

- 4.29 There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby. However, there is more than adequate formal open space across the area. Any additional development in Kirby will increase demand on already stretched play areas. There are two play areas within equal distance of the development (0.8m), namely Halstead Road, Kirby Cross and Park Playing Fields, Frinton.
- 4.30 It is noted that the current scheme indicates that an open space will be incorporated within the development. It is suggested that a new on-site play areas should be incorporated within the design to at least LAP standard.
- 4.31 Should the developer wish to transfer the ownership of the open space and play facilities to the Council upon completion in accordance with the draft heads of agreement a commuted sum calculated in accordance with Appendix 4, Supplemental Planning Document, 'Provision of Recreational Open Space for New Development' dated May 2008 would be required to provide for the sites future maintenance.

Essex Wildlife Trust

- 4.32 No comment received.

Environment Agency

- 4.33 No comments received.

Building Control

- 4.34 As this application is in outline form with all matters reserved there is insufficient information at this stage to determine whether access for firefighting meets the required standards.

National Health Service (NHS)

- 4.35 This development is likely to have an impact on the services of 2 GP practices within the locality. These GP practices do not have capacity for the additional growth as a result of this development. Therefore a HIA has been prepared by NHS England to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area.
- 4.36 The development would give rise to a need for improvements to capacity by way of extension, refurbishment, reconfiguration or relocation at the existing practices, a proportion of which would need to be met by the developer. Most likely in this instance, depending on specific timescales, a contribution towards relocation costs.
- 4.37 As stated there is a capacity deficit in the catchment practice and a developer contribution of £33,200 is required to mitigate the 'capital cost' to NHS England for the provision of additional health care services arising directly as a result of the development proposal.

5. **Representations**

5.1 Frinton and Walton Town Council objects to the proposed development for the following reasons:

- Object to the density of the proposal and layout;
- Object to the vehicular entrance/exit onto Thorpe Road, a dangerous egress;
- Outside the village settlement boundary;
- Erosion of the green gap and backland development;
- No frontage to houses, shared roads and pavements, which reduces the distance between properties – reduces residents' amenity, and;
- Socially unsustainable due to its distance from convenience for shopping, education, healthcare and employment.

5.2 50 letters of objection have been received and the issues raised are summarised as follows:

- The existing road network is already operating at capacity and the proposed development will result in an increase in traffic in the area;
- The proposed development is outside the defined settlement boundary;
- Site is within the Green Gap;
- Surface water drainage;
- Listed Building impacts;
- Ecology issues;
- Backland development;
- Would harm the 'village' character of the area;
- There is insufficient infrastructure capacity in the area to cope with the new development;
- The distance between the proposed dwelling and neighbouring properties is insufficient;
- The proposed development will impact negatively on neighbouring amenities;
- The proposed development will lead to a loss of important trees, and;
- Lack of local job opportunities.

6. **Assessment**

Site Location

6.1 The site extends to some 4.8 hectares and is located on the south side of Thorpe Road in the western part of the settlement of Kirby Cross.

6.2 To the north of the site shares a common boundary with the residential dwellings at 121 – 183 Thorpe Road. To the east are further residential properties, No's. 4 – 20 Chapel Lane which also in part share a common boundary with the application site and land immediately south of 20 Chapel Lane has planning permission for two bungalows. The site's southern boundary is effectively formed by the railway line beyond which is open countryside. The west edge of the site abuts the large gardens of 173 and 183 Thorpe Road.

6.3 The application site is mainly flat and has been divided into a small number of land parcels. The individual owners of the land have used the land mainly as paddocks or grazing land. While some buildings are present, these are mainly stables or animal shelters and there is also a ménage within the site.

6.4 There are some trees present on the site and these either define the boundaries of the site while others are located in small clusters within the site. In addition to the trees along the boundaries there are also mature hedges and other landscaping features.

Proposal

- 6.5 The proposals are submitted in outline with all matters reserved except access. The application is however accompanied by an indicative layout plan which illustrates how a scheme of the scale being proposed could potentially be accommodated on the site.
- 6.6 The submitted layout illustrates individual dwellings with their associated garden areas and parking spaces. There is also an indicative internal road layout, pedestrian connections and public open space.
- 6.7 The layout indicates a mixture of dwelling sizes and types varying in floor space from 75sq.m to 182sq.m. The dwelling mix in terms of bedrooms could be as follows:
16 x 2 bed units
63 x 3 bed units
31 x 4 bed units
- 6.8 The public open space, as shown, would exceed the 10% requirement from the Local Plan.

Main Planning Consideration

- 6.9 The main planning considerations are:
- Principle of development;
 - Highways, transport and accessibility;
 - Flood risk and drainage;
 - Impact on Heritage Assets;
 - Local Green Gap;
 - Infrastructure Impact;
 - Landscape, visual impact and trees;
 - Open space;
 - Ecology;
 - Indicative Layout and impact upon neighbours; and
 - Council Housing / Affordable Housing.

Principle of Development

- 6.10 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.
- 6.11 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved Objections to relevant policies and the degree of consistency with national policy. The 2012 Local Plan: Proposed Submission Draft, as amended by the 2014 Local Plan: Pre-Submission Focussed Changes, is the Council's 'emerging' Local Plan.
- 6.12 On 25th March 2014, the Council decided that further substantial revisions to the emerging plan will be required before it is submitted to the Secretary of State to be examined by a Planning Inspector. These revisions will aim to ensure conformity with both the NPPF and the

legal 'duty to cooperate' relating mainly to issues around housing supply. The separate Local Plan Committee is overseeing this work with a view to a new version of the plan being published for consultation later in 2016.

- 6.13 The site is not allocated for housing or mixed use development in either the adopted Local Plan (2007) or the draft Local Plan (2012) (as amended by the 2014 Focussed Changes). The site also lies outside but immediately adjacent to the settlement development boundary shown in both plans.
- 6.14 However, as it stands, both the adopted and emerging Local Plans fall significantly short in identifying sufficient land to meet the objectively assessed need for housing and, as a result, the Council is unable to identify a five-year supply of deliverable housing sites as required by paragraph 47 of the NPPF. In line with paragraph 49 of the NPPF, housing policies are considered to be 'out-of-date' and therefore the government's 'presumption in favour of sustainable development' is engaged. The Council would not be justified therefore in refusing this planning application, at this time, purely on the basis that it lies outside of the settlement development boundary.
- 6.15 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or
 - specific policies in the NPPF indicate development should be restricted.
- 6.16 One of the NPPF's core planning principles is to "*actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable*". With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations. Kirby Cross along with Frinton and Walton are classified as a 'Town' or 'Urban Settlement' in the adopted and emerging local plans in recognition of existing infrastructure and facilities. Urban settlements are considered to offer the most sustainable locations for significant levels of growth.
- 6.17 The density of development proposed is approximately 23 dwellings per hectare gross and 26 dwellings per hectare net, taking into account minimum open space requirements. Policy PEO3 in the emerging Local Plan sets out the factors that should be taking into account when assessing the density of a scheme. These are:
- a) Accessibility to local services;
 - b) Minimum internal floor area and private amenity space standards (as set out in emerging Policy PEO4);
 - c) The required mix of housing;
 - d) The character of development in the immediate area; and
 - e) On-site infrastructure requirements (such as green infrastructure and highways).
- 6.18 Kirby Cross in the main is characterised by inter-war ribbon development and other areas of post-war estate development. Given the site's containment within the landscape and the size and mix of properties suggested, the density proposed for the application site is acceptable for this location and, as shown through the indicative plans provided.

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

- 6.19 Officers consider that the proposal would have a positive economic impact both through employment during the construction phase and through the increase in expenditure resulting from additional households, for example by providing custom for services such as shops, public houses and other services in the Kirby, Frinton and Walton area and the use of local services and tradesmen.

Social Sustainability

- 6.20 Bearing in mind the current lack of a five-year supply of housing sites to meet objectively-assessed needs in Tendring, the status of Kirby Cross, Frinton and Walton as an urban settlement, and the density of development proposed, Officers consider that, in principle, residential development on this site is acceptable and would make a positive contribution toward housing supply and addressing the social dimension of sustainable development.
- 6.21 In addition the site is easily accessible on foot to the settlements public transport, shops, schools and employment opportunities. This is evidenced by the fact that a local bus stop is approximately 200m walking distance from the site while the railway station, local shops and a primary school are within a kilometre.
- 6.22 Within the wider Frinton, Walton and Kirby Cross area, are other facilities such as a secondary school, healthcare facilities and supermarkets are present. As already noted, the bus and rail services provide ready access to the further services and employment opportunities. Overall, this site has reasonably good access to services, facilities and public transport.
- 6.23 This is reflected in Frinton, Walton and Kirby Cross' categorisation as one of six 'Urban Settlements' within the district through Policy SD2 of the emerging 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.
- 6.24 Overall officers consider that the application site performs well in terms of the social role within the definition of sustainability.

Environmental Sustainability

- 6.25 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 both the adopted and emerging Local Plans and is clearly contained by existing residential development to the north and east, the railway line to the south and garden land to the west. On this basis officers are satisfied that the current scheme would be well related to the current settlement pattern of Kirby Cross.
- 6.26 With regard to landscape impact, the existing site comprises a large field divided into a small number of land parcels. The individual owners of the land have used the land mainly as

paddocks or grazing land. While some buildings are present, these are mainly stables or animal shelters and there is also a ménage within the site.

- 6.27 The Council's Principal Tree and Landscape Officer was consulted on the application. The officer noted that the site contains some important trees on the land namely those running across the proposed open space indicated for the centre of the land and those on and close to the perimeter of the open space in the south western corner. Most of these trees will need to be retained. The most important trees identified for removal as a consequence of the development are those on or close to the rear boundary of 10 Chapel Lane. As the trees in this location are at risk of removal because of the planning application a new tree preservation order has been made ref: TPO/16/01 to ensure that they are retained and protected and any detailed development scheme ensures they are incorporated.
- 6.28 The trees in the vicinity of the centrally situated open space are also covered by the TPO to ensure adequate measures for their protection.
- 6.29 The trees on the perimeter of the open space in the south eastern corner of the application site are not threatened by the development proposal and are therefore not included in the Tree Preservation Order.
- 6.30 Based on the above the officer confirmed 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. A condition to this effect will be therefore be imposed upon any approval.
- 6.31 An Extended Phase One and a Phase Two Ecology Assessment was undertaken and submitted in support of the application. The Phase One work concluded that the site was of low biodiversity value, while also suggesting that further surveys would be required. The Phase Two Ecology Assessment therefore sets out the details of these surveys and concludes that with the mitigation and enhancement measures recommended, there would be no predicted adverse impact on the site's ecology as a result of the development.
- 6.32 In response to the above the applicants have indicated that where feasible the development will provide enhancements for biodiversity within the scheme.
- 6.33 It is noted that to there is a listed building adjacent to the proposed footpath link to the north east of the site, No. 127, Mill House which is a Grade II Listed Building. The applicants have submitted a Heritage Statement in support of the application which considers the likely impacts of the current scheme on this heritage asset and its setting. Officers concur with the conclusion of the submitted document and conclude that the development would not materially impact on the setting of the Listed Building.
- 6.34 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.
- 6.35 The detailed impact upon the Local Green Gap designation is considered elsewhere in this report.

Highways, Transport and Accessibility

- 6.36 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;

- safe a suitable access to the site can be achieved for all people, and ;
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 6.37 Policy QL2 in the adopted Local Plan and Policy SD8 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The application site is within 1 kilometre walking distance of the of the primary school, local shops and train station. It is also within 200 metres of a bus stop on a bus route with services to and from Walton. The site offers a reasonable level of accessibility which is reflected in Frinton, Walton and Kirby Cross' categorisation as an urban settlement in both the adopted and emerging Local Plan.
- 6.38 Policy TRA1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy SD8 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.
- 6.39 The Town Council and some local residents have objected to the proposal with concerns about the capacity of Frinton Road to cope with additional vehicular movement and highway safety. Essex County Council, in its capacity as the Local Highways Authority, has however considered the proposal and concluded that it would be acceptable from a highways perspective subject to a number of conditions which are set earlier in this report.
- 6.40 In conclusion, the site is reasonably accessible, by foot and cycle, to local services and facilities and public transport and the vehicular access and highways matters have been considered and deemed acceptable by the Highway Authority. The transport impacts of the development are not considered to be severe and, from this perspective, Officers consider the proposal to be acceptable.

Flood Risk and Drainage

- 6.41 The application site lies within Flood Zone 1 on the Environment Agency Flood Zone Maps which indicates that the site is a low risk in relation to potential flooding. Nonetheless paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.
- 6.42 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Initially, ECC issued a 'holding objection' and required further work to be undertaken to ensure compliance with the guidelines set out in the relevant National Planning Practice Guidance. The applicant responded to the objection with further information requested and the objection has now been addressed. ECC now supports the grant of outline planning permission subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme, a scheme for minimising flooding during the construction period and maintenance plan before development can take place with arrangements for monitoring maintenance in the future.

6.43 In conclusion, the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the scheme should comply with the NPPF and Policies QL3 and PLA 1 of the adopted and emerging Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.

Impact on Heritage Assets

6.44 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.

6.45 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.

6.46 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.

6.47 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.

6.48 To comply with National and Local Plan Policies the applicants have submitted a Heritage Statement to support the application. This document identifies that there are no heritage assets on or within the application site and additionally the site is not located within a Conservation Area. The assessment correctly identifies however that there are three listed buildings in the general location of the application site.

6.49 The Planning (Listed Buildings and Conservation Areas) Act 1990 S. 66 imposes a general duty as respects listed buildings in the exercise of planning functions:

1. In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

6.50 Paragraph 133 of the NPPF states that where a proposed development will lead to 'substantial harm' to or 'total loss of' significance of a designated heritage asset [which includes the value of its setting], local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 134 states that where development proposal will lead to 'less than substantial harm', this harm should be weighed against the public benefits of the proposal.

- 6.51 In this instance, two of the identified listed buildings are some distance from the land to be developed and will not be affected. The most likely to be affected heritage asset is the property at Mill House a Grade II Listed Building. The building is hemmed in by neighbouring properties along Thorpe Road and officers consider that its setting has been somewhat eroded by this fact. Nonetheless the significance of this building lies mainly in its surviving architectural features. On this basis as the current scheme does not propose any physical changes to this property and Officers are of the view that the proposed development would not result in any significant harm to either the building itself or its wider setting that would outweigh the public benefit, mainly in respect of housing provision, of the current scheme.
- 6.52 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.

Local Green Gap

- 6.53 The site is located within the Green Gap and outside of the defined settlement development boundary of Kirby Cross, as depicted in both adopted Local Plan. In the emerging Local Plan, the site lies outside of the settlement development boundary but the Local Green Gap to the south of Kirby Cross is proposed for removal. 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.
- 6.54 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.
- 6.55 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', 'West Country House, Cherry Tree Avenue, Clacton-on-Sea' and Land east of Halstead Road, Kirby Cross. 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.
- 6.56 In this instance, it is noted that the site is bounded to the south by a railway line which forms a natural buffer that will limit further incremental expansion to the south. Consequently officers are of the opinion that the proposed development in this instance would not result in the coalescence of settlements or neighbourhoods that could result in them losing their individual identities. A significant physical gap can still be maintained beyond the railway line to the south towards Great Holland to provide long-term protection. 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.
- 6.57 The land in question does not contribute toward the intrinsic beauty of the open countryside in the same way that many green gap sites do and, on balance, Officers consider that the adverse impact of losing this area of land to development would not undermine the function of the Local Green Gap policy and would significantly or demonstrably outweigh the benefits of the development in terms of housing supply.

- 6.58 Officers consider that the provision of a site for up to 110 dwellings would add significantly to the supply of housing land within the District and on balance weight must be given to this significant need.

Infrastructure Impact

- 6.59 Policy QL12 in the adopted Local Plan and Policy SD7 in the emerging Local Plan require that new development is supported by the necessary infrastructure. The Town Council and local residents have raised concern about the impact of the cumulative impact of additional homes on local infrastructure, in particular schools, health services and sewage.
- 6.60 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations requesting a financial contribution of just over £400,000 towards creating additional primary school places in the area.
- 6.61 The NHS has requested a financial contribution of just over £30,000 towards the capital cost of primary healthcare provision in the area.
- 6.62 Anglian Water has confirmed that sewage from this number of dwellings can be accommodated by the treatment works at Walton.
- 6.63 In conclusion, the impacts on local infrastructure arising from this development can either be addressed by way of developer contribution (in the case of education and local health services) or are otherwise not considered to be significant or demonstrable enough to justify the refusal of planning permission when applying the presumption in favour of sustainable development.

Landscape, Visual Impact and Trees

- 6.64 Policy QL9 in the adopted Local Plan and Policy SD9 in the emerging Local Plan require developments to respect and enhance views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Policy EN1 of the adopted Local Plan and Policy PLA5 in the emerging Local Plan seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement. Policies QL9 and SD9 also require developments to incorporate important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings.
- 6.65 Despite being undeveloped paddocks and grazing land, the site is well contained within its wider landscape and is well screened by existing housing and landscaping along Thorpe Road and Chapel Lane. In conclusion, the landscape and visual impact of the development is expected to be low and enhancements through additional soft landscaping can be secured through planning conditions. Officers are satisfied that, subject to the landscaping being agreed and implemented, the visual and landscape impacts will be acceptable and the scheme can perform well against the environmental dimension of sustainable development.

Open Space

- 6.66 Policy COM6 in the adopted Local Plan and Policy PE022 of the emerging Local Plan require large residential developments on sites of 1.5 hectares or above to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. For smaller sites, the Council can secure financial contributions toward open space and play equipment in the surrounding area.

- 6.67 This site exceeds the 1.5ha threshold. The Council's Open Space and Bereavement Service Manager has commented on the application and has identified a deficiency of equipped play in Frinton, Walton & Kirby. However, there is more than adequate formal open space across the area.
- 6.68 It is noted that the current scheme indicates that an open space will be incorporated within the development. It is suggested that a new on-site play area should be incorporated within the design to at least LAP standard. This specification would be secured through a section 106 agreement should planning permission be forthcoming.
- 6.69 In addition it was stated that should the developer wish to transfer the ownership of the open space and play facilities to the Council upon completion in accordance with the draft heads of agreement a commuted sum calculated in accordance with Appendix 4, Supplemental Planning Document, 'Provision of Recreational Open Space for New Development' dated May 2008 would be required to provide for the sites future maintenance.

Ecology

- 6.70 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PLA4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for. Policy EN6b in the adopted Local Plan and PLA4 in the emerging Local Plan support the creation of new habitats within developments subject to appropriate management and public access arrangements. Policy EN6a in the adopted Local Plan refers specifically to protected species.
- 6.71 The application site is not designated as a site of international, national or local importance to nature conservation and Natural England has offered no objection, in principle, to the proposed development.
- 6.72 The applicant prepared and submitted a phase one habitat survey which identified that additional survey work would be required. In response additional surveys were done between July and August 2015. The findings of these surveys have been set out in the Phase Two Ecology Assessment submitted in support of the application.
- 6.73 The assessment revealed that the site contained some small populations of reptiles in parts of the site, but no protected mammals. Four bat species are said to use the site area for foraging and commuting, yet there was no evidence of any bat roosting within the site. The site contains no Great Crested Newts and none were found within neighbouring ponds.
- 6.74 The Phase Two report concluded that with the mitigation and enhancement measures recommended, there would be no predicted adverse impact of the development on the site's ecology.
- 6.75 In conclusion, the impact on biodiversity is expected to be low and through the recommended mitigation measures, the ecological value of the site could be enhanced. Officers consider that these measures are acceptable, would ensure compliance with the policies in the Local Plan and the environmental dimension of sustainable development.

Indicative Layout and Impact Upon Neighbours

- 6.76 Policy QL11 of the Tendring District Local Plan (2007) and Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (November 2012) states that new

development will only be permitted if, amongst other things, the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

- 6.77 As an outline planning application, detailed design and layout is a reserved matter for future consideration but the Council needs to be satisfied that an appropriate scheme of up to 110 dwellings with associated infrastructure can be accommodated on the site in an appropriate manner. The indicative material submitted in support of the application; including the indicative layout demonstrate that there is a reasonable prospect of an acceptable scheme being achievable on the site at an appropriate density.
- 6.78 A number of residents have raised concern that new residential development will result in a loss of their amenities in terms of loss of light, overlooking and noise. Whilst these concerns are noted, in conclusion, Officers consider that the impact of the development on neighbours is likely to be low and that, subject to detailed consideration of reserved matters such as design and layout at a later stage, are expected to be acceptable.
- 6.79 The Town Council objects to the backland nature of the proposed development. Policy HG13 of the Tendring District Local Plan (2007) and Policy PEO6 of the Tendring District Local Plan Proposed Submission Draft (November 2012) seek to ensure that backland residential development provides a safe means of vehicular access, does not involve tandem development and will not be out of character with the area or set a harmful precedent for other similar forms of development. The indicative material submitted in support of the application including the indicative layout demonstrates that an acceptable access can be provided and the proposed development will not result in demonstrable harm to Kirby Cross which is characterised by post-war estate development set behind linear development fronting Frinton Road.

Council Housing/Affordable Housing

- 6.80 Policy HG4 in the adopted Local Plan requires 40% of dwellings on sites of 15 or more dwellings to be provided as affordable housing for people unable to afford market housing. Policy PEO10 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 25% of new dwellings on large sites to be made available to the Council to acquire at a discounted value for use as Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 25% requirement. The application makes provision, in principle, for 25% affordable housing within the scheme which would be secured through a s106 agreement in line with the emerging policy. On a development of 110 dwellings, the 25% requirement would equate to 27 dwellings being acquired by the Council.
- 6.81 The Council's Housing Needs team has commented on the application and advised that there is a need for affordable housing in the area based on evidence from the local housing register. It has been suggested that, as an alternative to transferring 27 properties to the Council at a discounted value, the Council would be prepared to accept 8 properties 'gifted' (i.e. transferred to the Council at zero cost). The applicant has indicated that they would be willing to gift 8 properties to the Council at zero cost as suggested by the Council's Housing Team.
- 6.82 If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of Council Housing to be secured through a s106 legal agreement.

Conclusion

- 6.83 The application has been assessed in relation to the policies of the NPPF and relevant adopted Local Plan and emerging Local Plan in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2014.
- 6.84 In conclusion, in applying the NPPF 'presumption in favour of sustainable development' the proposal addresses the three dimensions of sustainable development. The economic impact of the development would be positive both in terms of temporary construction jobs and the increased demand for goods and services that arises from population growth; the social impacts would be positive in terms of the contribution toward meeting projected housing need; and the environmental impacts would be neutral with the potential for them to be positive subject to securing successful approaches to landscaping, drainage and habitat creation.
- 6.85 The adverse impacts of the development would not significantly or demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole and therefore in line with paragraph 14 of the NPPF Officers recommend the approval of outline planning permission subject to the completion of a s106 legal agreement to secure a financial contribution toward education and health provision, on-site open space and an appropriate contribution towards Council Housing / Affordable Housing. There are also a number of conditions that would apply to the grant of planning permission, as outlined at the head of this report.

Background Papers

None.