



PLANNING COMMITTEE

DATE: Tuesday, 17 December 2019
TIME: 6.00 pm
VENUE: Council Chamber - Council Offices,
Thorpe Road, Weeley, CO16 9AJ

MEMBERSHIP:

Councillor White (Chairman)
Councillor Bray (Vice-Chairman)
Councillor Alexander
Councillor Cawthron
Councillor Codling

Councillor Fowler
Councillor Harris
Councillor McWilliams
Councillor Placey

Most Council meetings are open to the public and press.

Agendas and Minutes are published on the Council's website www.tendringdc.gov.uk. Agendas are available to view five working days prior to the meeting date and the Council aims to publish Minutes within five working days of the meeting.

Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.

For further details and general enquiries about this meeting, contact Ian Ford on 01255 686 584.

DATE OF PUBLICATION: Thursday, 5 December 2019

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 1 - 6)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday 19 November 2019.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

4 Questions on Notice pursuant to Council Procedure Rule 38

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

5 A.1 - Planning Application - 19-00791-DETAIL - Land East of School Road, Elmstead, CO7 7ET (Pages 7 - 24)

Reserved matters application for the erection of 62 dwellings, associated garaging, parking and infrastructure.

6 A.2 - Planning Application - 19/00283/FUL - Land East of Halstead Road, Kirby Cross, Frinton-on-Sea, CO13 0LR (Pages 25 - 46)

Development of 13 dwellings with Associated Landscaping and Infrastructure.

7 A.3 - Planning Application - 19/00610/FUL - Land at Oakmead Road, St Osyth, CO16 8NW (Pages 47 - 70)

Construction of 4 No detached houses and access road off existing drive.

8 A.4 - Planning Application - 19/01527/FUL - Owl Lodge, Vicarage Lane, Thorpe-le-Soken, CO16 0EH (Pages 71 - 86)

Proposed erection of three detached 3 bed bungalows.

MEETING OVERRUN DATE

In the event that all business is not concluded, the meeting will reconvene on **Wednesday 18 December 2019 at 6.00 p.m.** in the Council Chamber, Council Offices, Thorpe Road, Weeley to consider any remaining agenda items.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Council Offices, Thorpe Road, Weeley, CO16 9AJ at 6.00 pm on Tuesday, 14 January 2020.

Information for Visitors

PUBLIC ATTENDANCE AT PLANNING COMMITTEE MEETINGS

Welcome to this evening's meeting of Tendring District Council's Planning Committee. This is an open meeting which members of the public can attend to see Councillors debating and transacting the business of the Council. However, please be aware that, unless you have registered to speak under the Public Speaking Scheme, members of the public are not entitled to make any comment or take part in the meeting. You are also asked to behave in a respectful manner at all times during these meetings.

Members of the public do have the right to film or record Committee meetings subject to the provisions set out below:-

Rights of members of the public to film and record meetings

Under The Openness of Local Government Bodies Regulations 2014, any person is permitted to film or record any meeting of the Council, a Committee, Sub-Committee or the Cabinet, unless the public have been excluded from the meeting for the consideration of exempt or confidential business.

Members of the public also have the right to report meetings using social media (including blogging or tweeting). The Council will provide reasonable facilities to facilitate reporting.

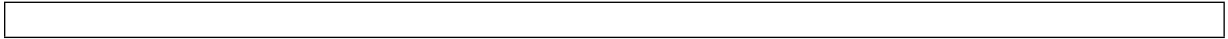
Public Behaviour

Any person exercising the rights set out above must not disrupt proceedings. Examples of what will be regarded as disruptive, include, but are not limited to:

- (1) Moving outside the area designated for the public;
- (2) Making excessive noise;
- (3) Intrusive lighting/flash; or
- (4) Asking a Councillor to repeat a statement.

In addition, members of the public or the public gallery should **not** be filmed as this could infringe on an individual's right to privacy, if their prior permission has not been obtained.

Any person considered being disruptive or filming the public will be requested to cease doing so by the Chairman of the meeting and may be asked to leave the meeting. A refusal by the member of the public concerned will lead to the Police being called to intervene.



FIRE EVACUATION PROCEDURE

There is no alarm test scheduled for this meeting.

In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the hall and follow the exit signs out of the building.

Please heed the instructions given by any member of staff and they will assist you in leaving the building and direct you to the assembly point.

Please do not re-enter the building until you are advised it is safe to do so by the relevant member of staff.

Your calmness and assistance is greatly appreciated.

Tendring District Council



PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME May 2017

This Public Speaking Scheme is made pursuant to Council Procedure Rule 38 and gives the opportunity for a member of the public and other parties identified below to speak to Tendring District Council's Planning Committee when they are deciding a planning application.

TO WHICH MEETINGS DOES THIS SCHEME APPLY?

Usually any public meeting of the Council's Planning Committee, which are normally held every 4 weeks in the Council Chamber at the Council Offices, Thorpe Road, Weeley CO16 9AJ beginning at 6.00 pm. In some instances, the Planning Committee may be held at the Town Hall, Station Road, Clacton-on-Sea CO15 1SE and the public are encouraged to check the venue on the Council's Website before attending.

WHO CAN SPEAK & TIME PERMITTED? All speakers must be aged 18 or over:

1. One member of the public who wishes to comment on or to speak in favour of the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes is allowed;
2. One member of the public who wishes to comment on or speak against the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes is allowed;
3. Where the proposed development is in the area of a Parish or Town Council, one Parish or Town Council representative. A maximum of 3 minutes is allowed;
4. All District Councillors for the ward where the development is situated ("ward member") or (if the ward member is unable to attend the meeting) a District Councillor appointed in writing by the ward member. Member(s) of adjacent wards or wards impacted by the proposed development may also speak with the agreement of the Chairman. Permission for District Councillors to speak is subject to the Council's Code of Conduct and the declarations of interest provisions will apply. A maximum of 5 minutes is allowed;
5. In accordance, with Council Procedure Rule 34.1, this Public Speaking Scheme takes precedence and no other Member shall be entitled to address or speak to the Planning Committee under Rule 34.1;
6. The applicant, his agent or representative; or (where applicable) one person the subject of the potential enforcement action or directly affected by the potential confirmation of a tree preservation order, his agent or representative. A maximum of 3 minutes is allowed; and

7. A member of the Council's Cabinet may also be permitted to speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee. A maximum of 3 minutes is allowed.

Any one speaking as a Parish/Town Council representative maybe requested to produce written evidence of their authority to do so, by the District Council's Committee Services Officer (CSO). This evidence may be an official Minute, copy of standing orders (or equivalent) or a signed letter from the Clerk to the Parish/Town Council and must be shown to the DSO before the beginning of the Planning Committee meeting concerned.

No speaker, (with the exception of Ward Members, who are limited to 5 minutes) may speak for more than 3 minutes on any agenda items associated with applications (such as a planning application and an associated listed building consent application). Speakers may not be questioned at the meeting, nor can any public speaker question other speakers, Councillors or Officers. Speakers are not permitted to introduce any photograph, drawing or written material, including slide or other presentations, as part of their public speaking.

All Committee meetings of Tendring District Council are chaired by the Chairman or Vice-Chairman (in their absence) whose responsibility is to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community. The Chairman of the Planning Committee therefore, has authority to use their discretion when applying the Public Speaking Scheme to comply with this duty.

WHICH MATTERS ARE COVERED BY THIS SCHEME?

Applications for planning permission, reserved matters approval, listed building consent, conservation area consent, advertisement consent, hazardous substances consent, proposed or potential enforcement action and the proposed or potential confirmation of any tree preservation order, where these are the subject of public reports to the Planning Committee meeting.

HOW CAN I FIND OUT WHEN A MATTER WILL BE CONSIDERED?

In addition to the publication of agendas with written reports, the dates and times of the Planning Committee meetings are shown on the Council's website. It should be noted that some applications may be withdrawn by the applicant at short notice and others may be deferred because of new information or for procedural reasons. This means that deferral takes place shortly before or during the Planning Committee meeting and you will not be able to speak at that meeting, but will be able to do so at the meeting when the application is next considered by the Planning Committee.

DO I HAVE TO ATTEND THE PLANNING COMMITTEE MEETING TO MAKE THE COMMITTEE AWARE OF MY VIEWS?

No. If you have made written representations, their substance will be taken into account and the Committee report, which is available to all Planning Committee Councillors, will contain a summary of the representations received.

HOW DO I ARRANGE TO SPEAK AT THE MEETING?

You can:-

Telephone the Committee Services Officer ("CSO") (01255 686585) during normal working hours on any weekday after the reports and agenda have been published,

OR

On the day of the Planning Committee meeting, you can arrive in the Council Chamber at least 15 minutes before the beginning of the meeting (meetings normally begin at 6.00pm) and speak to the DSO.

If more than one person wants to speak who is eligible under a particular category (e.g. a member of the public within the description set out in numbered paragraph 1 above), the right to speak under that category will be on a “first come, first served” basis.

Indicating to the Chairman at a site visit that you wish to speak on an item is NOT formal notification or registration to speak; this must be made via the Committee Services Officer in the manner set out above.

WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?

- Planning Officer presents officer report
- Public speaking takes place in the order set out above under the heading “WHO CAN SPEAK?”
- Officer(s) may respond on factual issues arising from public speaking and may sum up the key policies and material planning considerations relevant to the application
- Committee Members may ask Officers relevant questions and may move, debate and vote

Normally, the Committee then determines the matter, but sometimes the Councillors decide to defer determination, to allow officers to seek further information about a particular planning issue. If a matter is deferred after the public speaking, the Committee will not hear public speaking for a second time, unless there has been a substantial change in the application which requires representations to be made. The Executive Summary section of the Planning Committee Report will identify whether public speaking is going to be permitted on an application being reconsidered after deferral. If there is an update since the Report was published, the Council’s website will confirm this information.

WHAT SHOULD I SAY AT THE MEETING?

Please be straightforward and concise and try to keep your comments to planning matters which are directly relevant to the application or matter concerned. Planning matters may include things such as planning policy, previous decisions of the Council on the same site or in similar circumstances, design, appearance, layout, effects on amenity, overlooking, loss of light, overshadowing, loss of privacy, noise or smell nuisance, impact on trees, listed buildings or highway safety.

Matters such as the following are not relevant planning matters, namely the effect of the development on property value(s), loss of view, personality or motive of the applicant, covenants, private rights or easements and boundary or access disputes.

Please be courteous and do not make personal remarks. You may wish to come to the meeting with a written statement of exactly what you want to say or read out, having checked beforehand that it will not overrun the 3 minutes allowed.

WHO DO I CONTACT FOR MORE INFORMATION?

The Council's website will help you and you can also contact the relevant planning Case Officer for the matter. The name of the Officer is on the acknowledgement of the application or in the correspondence we have sent you.

Tendring District Council, Planning Services, Council Offices, Thorpe Road, Weeley,
CLACTON-ON-SEA, Essex CO16 9AJ Tel: 01255 686161 Fax: 01255 686417
Email: planningservices@tendringdc.gov.uk Web: www.tendringdc.gov.uk

It always helps to save time if you can quote the planning application reference number.

**Monitoring Officer
Tendring District Council
in consultation with Head of Planning and
Chairman of the Planning Committee
(Council Procedure Rule 38)
May 2017**

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY 19 NOVEMBER 2019 AT 6.00 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Cawthron, Codling, Fowler, Harris and McWilliams
Also Present:	Councillors Fairley (except minute 66) and Wiggins
In Attendance:	Cath Bicknell (Head of Planning), Lisa Hastings (Head of Governance and Legal Services & Monitoring Officer), Graham Nourse (Planning Manager), Trevor Faulkner (Temporary Planning Team Leader) and Katie Sullivan (Committee Services Officer)

61. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor Placey (with no substitute).

62. MINUTES OF THE LAST MEETING

The Council's Head of Governance and Legal Services & Monitoring Officer (Lisa Hastings) informed Members that it had been brought to her attention that there was an error in the minutes in relation to Planning Application 19/01353/OUT (Minute 60) where during public speaking Councillor Scott, a local Ward Member had in fact spoken in favour of and not against, the application had been erroneously recorded.

The minutes of the last meeting of the Committee, held on Tuesday 22 October 2019, were then approved as a correct record and signed by the Chairman, subject to the above alteration being made thereto.

63. DECLARATIONS OF INTEREST

There were none.

64. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none.

65. A.1 - PLANNING APPLICATION - 19/00738/FUL - LAND REAR OF 1 & 2 THE PADDOCKS, WINDMILL ROAD, BRADFIELD, CO11 2QR

It was reported that this application had been referred to the Planning Committee at the request of Councillor Fairley, the local Ward member.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Temporary Planning Team Leader (TF) in respect of the application.

An update sheet was circulated to the Committee prior to the meeting with details of one letter of support that had been submitted.

Bill Marshall, a resident, spoke in support of the application.

Parish Councillor Kreon Wynn, representing Bradfield Parish Council, spoke against the application.

Councillor Fairley, the local Ward Member, spoke against the application.

Peter Le Grys, the agent on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Cawthron and **RESOLVED** that, contrary to the Officer's recommendation of approval, the Head of Planning (or equivalent authorised officer) be authorised to refuse planning permission for the development due to the following reasons:-

- Contrary to NPPF para 127 - failure to optimise land outside Settlement Boundary.
- Backland development.
- Contrary to policy HG13 – long driveways.
- Loss of amenity.

66. A.2 - PLANNING APPLICATION - 18/00767/OUT - LAND TO THE NORTH OF STOURVIEW CLOSE, MISTLEY, CO11 1LT

The Chairman informed the meeting that, ordinarily, there would not be any public speaking allowed on the application at this time as the application had been the subject of public speaking when it had been previously been before the Committee at its meeting held on 22 October 2019. However, in order to ensure that the Members of the Committee who had not been in attendance at that meeting were in possession of the same facts and knowledge on the application as the rest of the Committee when it came to determining the application, the Chairman advised the meeting that he was exercising his discretionary authority under the Public Speaking Scheme and would allow a speaker to put the case on behalf of the applicant.

The Committee was aware that at its meeting held on 22 October 2019 the only Public Speaker on this application had been Will Vote, the applicant's Planning Agent

Members recalled that this application had been deferred by the Committee on 22 October 2019 in order for further clarification to be sought on the Viability Study submitted in support of the application to vary the terms of the existing Section 106 Legal Agreement associated with application ref. 15/01810/OUT, which had been for up to 70 dwellings with a new access road off Stourview Avenue, Mistley, and which had been approved on 30 May 2017.

It was reported that post deferral from the October Planning Committee, the applicant had now provided some additional comments to support their case, which could be summarised as follows:

- *Developer profit on private housing is, on average, 23% based on Gross Development Value (GDV), developer profit on affordable housing is less;*

- *Developers must meet two financial tests to satisfy lending from banks, namely profit (on GDV) and Return on Capital Employed (ROCE).*
- *ROCE is a measure of how profitable the development project is in relation to the funds invested in it;*
- *An appropriate profit may be influenced by a number of factors; these include: Certainty of information to the valuer; risk; scale of development; level of financial exposure; and timescales;*
- *With respect to Stourview Avenue, abnormal costs (as referred to above i.e. site levels, spring, drainage solution) mean that the risks are higher than average;*
- *For banks to reasonably lend to developers on a specific site, they will arguably expect a higher profit margin than normal. The applicant consider they have adopted a profit level reflecting a fairly low risk scheme at 20% of cost of the private units and 6% on affordable units. This figure is less than the 23% figure quoted above despite the high level of abnormal/unknown costs;*
- *Finance is needed to cover the initial site purchase and cover the cost of development up until the project starts to turn a profit, when new homes are sold. This threshold is normally only crossed when selling the last phase of homes on the site;*
- *If the bank believes that the financial risk is not matched by suitable profit, then the finance itself would not be available or at best, restrictively expensive;*
- *Lending rates currently start at 8.5% on average and rise subject to perceived project or borrower risk; and*
- *In conclusion, the applicant considers the proposed profit margin at Stourview Avenue to be 'particularly low' with financial lending a long way below current lending rates. Further, the profit level (at 16.67%) was accepted without comment by Council's own independent valuer, suggesting that such low margins represent a very lenient position by the developer.*

To assist Members in their consideration of this case, it was important to note National Planning Policy Guidance with respect to Viability. The NPPF (2019) at paragraph 57 stated:

"...The weight to be given to a viability assessment is a matter for the decision maker, having regard to all circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan [or in this case, since approval on outline planning permission in 2017] was brought into force."

In support of the NPPF, the Government had produced complementary national planning policy guidance which included guidance on 'Viability'. This guidance had helpfully set out advice on a 'return to developers' (profit) for the purpose of viability assessment. In this regard, the planning policy guidance included the following guidance:

- *It is the role of developers, not plan makers or decision makers, to mitigate potential risks to development;*
- *The cost of fully complying with policy requirements should be accounted for in benchmark land value;*
- *Under no circumstances will the price paid for land be relevant justification for failing to accord with relevant policies in the plan; and*
- *For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish*

the viability of plan policies [by inference, this could equally be applied to considering scheme viability through a planning application].

The agreed Viability Assessment had included a projected developer profit level of 16.67%, which would allow for a financial contribution of £260K. At 16.67% profit, this sat at the lower end of the suggested 15-20% profit range contained in the national guidance and had been deemed acceptable by the Council's independent valuer.

To further assist Members in their consideration of this case, Officers had sought additional advice from an independent valuer in terms of a scenario where the developer profit was capped at 15% - the lowest level referred to in the national guidance on viability. The results of this further appraisal were that a 15% GDV would allow for a financial contribution of circa £544K. This would be nearer to the originally agreed Section 106 contributions (excluding affordable housing) but would remain below the level that would now be generated in association with the new application.

Members were informed that it must be borne in mind that the applicant had not agreed to the above re-run appraisal and the application before Members remained that which was reported above – namely a revised Section 106 planning obligation that made a provision in lieu payment of £260K which would need to include the RAMS payment (£8,805,60), together with the provision of on-site open space and its maintenance.

Members were further informed that the planning merits of this case hinged on the relative weight that should be given to the need to provide housing in the District as set against the low level of contributions that would be provided to mitigate the impacts of the scheme in terms of addressing the additional demands on education and healthcare and the absence of any affordable housing provision.

On balance, Officers had remained content that, given the importance of maintaining housing land supply and the special circumstances of this case where viability concerns had been proven and accepted by the Council's independent experts, the grant of planning permission with a revised Section 106 Agreement for a significantly reduced level of contribution to allow development to come forwards was acceptable in this case.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Temporary Planning Team Leader (TF) in respect of the application.

In accordance with the Chairman's decision to exercise his discretionary authority under the terms of the Public Speaking Scheme, as detailed above, Steven Rose, the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor Bray and **RESOLVED** that, contrary to the Officer's recommendation of approval, the Head of Planning (or equivalent authorised officer) be authorised to refuse planning permission for the development due to the benefit of additional housing being outweighed by failure to provide sufficient infrastructure through Section 106 contributions, with particular focus on lack of education and health care and also reduced affordable housing provisions, being against policy.

The meeting was declared closed at 8.02 pm

Chairman

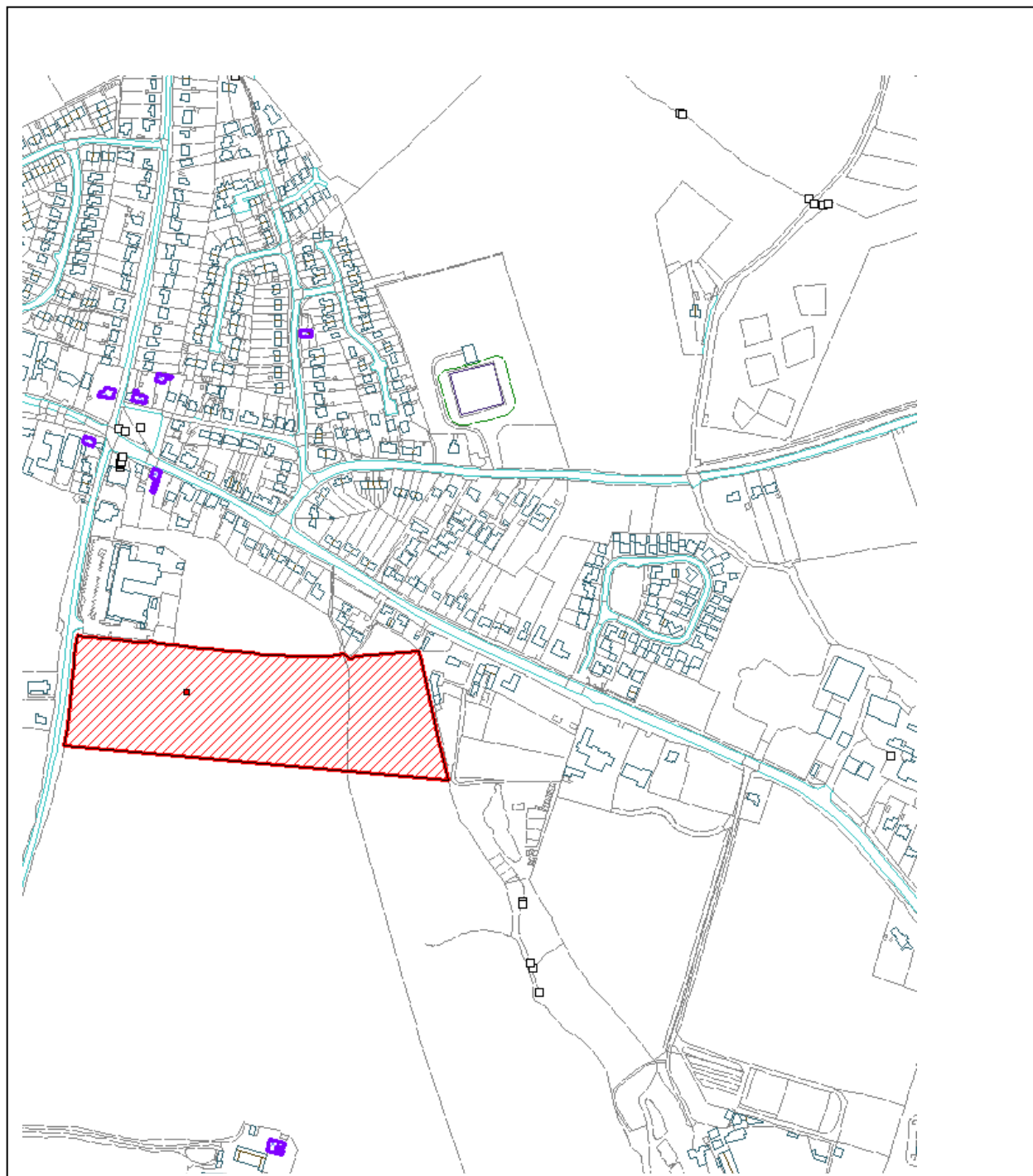
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PLANNING COMMITTEE

17th DECEMBER 2019

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION – 19/00791/DETAIL – LAND EAST OF SCHOOL ROAD ELMSTEAD CO7 7ET



DO NOT SCALE

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Application: 19/00791/DETAIL

Town / Parish: Elmstead Market Parish Council

Applicant: Mr J Hills - Hills Residential

Address: Land East of School Road Elmstead Essex CO7 7ET

Development: Reserved matters application for the erection of 62 dwellings, associated garaging, parking and infrastructure.

1. **Executive Summary**

- 1.1 This application has been referred to Planning Committee at the request of Councillor Scott due to concerns about the negative impact on urban design/street scene, highways impact and other traffic issues.
- 1.2 The site benefits from extant outline planning permission, with all matters reserved, for 62 new homes and associated open space, as allowed on appeal on 5 February 2018.
- 1.3 It is considered that in respect of Access, Appearance, Layout, Scale and Landscaping, the application has demonstrated that the development would be of high quality, would respond to its surroundings and would be sustainable and as such, Reserved Matters can be agreed subject to: the completion of a legal obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure a financial contribution to mitigate direct recreational impacts at European designated sites, and a number of planning conditions.
- 1.4 If the Committee endorses this recommendation, conditions would be imposed relating directly to the reserved matters under consideration, whilst conditions attached to the outline approval would still apply. The legal agreement for the original application which secures affordable housing, education and open space contributions/requirements would also still apply.

Recommendation:

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):**
 - **Financial Contribution towards RAMS**
- b) Subject to the conditions stated in section 8.2
- 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

The following Local and National Planning Policies are relevant to this planning application.

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
HG1	Housing Provision
HG3	Residential Development within Defined Settlements
HG3A	Mixed Communities
HG4	Affordable Housing in New Developments
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM2	Community Safety
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM23	General Pollution
COM26	Contributions to Education Provision
COM29	Utilities
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN4	Protection of the Best and Most Versatile Agricultural Land
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation

EN12	Design and Access Statements
EN13	Sustainable Drainage Systems
EN29	Archaeology
TR1A	Development Affecting Highways
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

Tending District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SP1	Presumption in Favour of Sustainable Development
SP4	Providing for Employment & Retail
SP5	Infrastructure & Connectivity
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP1	Improving Health and Wellbeing
HP4	Safeguarded Local Greenspace
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable and Council Housing
PP12	Improving Education and Skills
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage

PPL7	Archaeology
CP1	Sustainable Transport and Accessibility
CP3	Improving the Telecommunications Network

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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 48 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. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF 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 an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the

weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

3. Relevant Planning History

16/01797/OUT	Outline application for the erection of 62 dwellings, associated garaging, parking and infrastructure.	20.04.2017
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4. Consultations

ECC Highways	From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to a number of conditions and informatives.
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Essex Police	Recommend the applicant incorporate Crime Prevention through Environmental Design and apply for the police preferred Secured by Design accreditation.
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ECC SuDS Consultee	Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, ECC SuDS do not object to the granting of planning permission based on the following conditions: Condition 1
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No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to 2l/s for all storm events up to an including the 1 in 100 year rate plus 40% allowance for climate change.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Sediment control before the open attenuation feature, such as a sediment forebay.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to

occupation.

Reason

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

To ensure the effective operation of SuDS features over the lifetime of the development.

To provide mitigation of any environmental harm which may be caused to the local water environment.

Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

Condition 2

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason

The National Planning Policy Framework, paragraph 163 and paragraph 170, state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

Condition 3

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water

drainage system and the maintenance activities/ frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

Condition 4

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

We also have the following advisory comments:

- You may require ordinary watercourse consent. Please see the following link:
<https://flood.essex.gov.uk/maintaining-or-changing-a-watercourse/apply-for-a-watercourse-consent/>
- As the ground water is within 1 metre of the base of the attenuation feature, there will not be sufficient treatment if infiltration is to occur. Therefore the hybrid approach is not acceptable.

INFORMATIVES:

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.

Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

5. Representations

5.1 Elmstead Parish Council has made the following comments on the application:

Swale Location

The Council think that the swale would be better placed at the far eastern boundary where the land is lowest and creates a natural buffer with the adjacent property. It currently lies right up against a PROW and could be a health and safety issue for those using the footpath.

Paragraph 1.0 Executive Summary of the Design & Access Statement for the outline application 16/01797/OUT included the following provisions which are missing from the Design & Access Statement and site plan for the current application:

Reduction of benefits for Market Field School

In addition to the respite home Market Field School was to be provided with allotments and a poly tunnel for educational purposes. The original site plan also included a school area and 2 sheds. Why have all these benefits been removed?

Covenant on home extensions

It was stated that there would be a covenant placed on the homes to ensure that they cannot be extended, which is not mentioned in the current application.

Trust Housing

The possibility of Trust housing remaining under local control, to ensure local people get the first opportunity for the affordable housing. The council is in favour of this but it is not mentioned in the current application.

Public Open Space

The provision of land for a new public open space area. It is difficult to see what public open space is being provided. The local area for play space has been drastically reduced, and there is not much other public open space. The council does not agree that a swale area can be called or appreciated as public open space.

1 letter of representation has been received from a local resident recommending that the swale be moved nearer to the eastern boundary away from the public footpath for safety reasons and this would form a buffer between the development and the paddocks next to the eastern boundary, where currently there are nine horses on the adjacent field.

6. Assessment

The Site

- 6.1 The application site comprises of 4.37 hectares of oblong shaped arable agricultural land located to the south of Elmstead Market and just outside the existing Development Boundary for the village. The Market Field School is located immediately to the north of the application site. Site access is taken directly from School Road. The eastern end of the application site also partially adjoins existing residential development fronting Clacton Road.

The Proposal

- 6.2 This application seeks reserved matters consent in relation to access, appearance, landscaping, layout and scale, following approval on appeal of an outline application (with all matters 'reserved') for 62 dwellings under planning permission ref. 16/01797/OUT.
- 6.3 The proposal is for the development of 62 dwellings as per the limit on the outline permission, principally comprising two-storey detached houses, but with a smaller element of two-storey semi-detached and terraced units, and the provision of five detached bungalows. As per a condition imposed on the outline approval (condition 17), one of the bungalows (plot 62) will be made available for use by Market Field School as a respite house for parents of pupils at this specialist school. The proposal also includes areas of open space along the northern boundary of the site and a larger 'oval shaped' informal open space with central swale to the rear/eastern end of the site.
- 6.4 The proposed housing mix is as follows:
- Market Units
 - 25 x 2 bed dwellings (of which 5 would be bungalows)
 - 21 x 3 bed dwellings
 - 18 x 4 bed dwellings
 - Social
 - 2 x 2 bed affordable houses
 - 3 x 3 bed affordable houses
- 6.5 The scheme provides for a mix of dwelling sizes and types in line with the Council's adopted and emerging planning policies.

Principle of Development

- 6.6 The principle of development has already been established through the grant of outline planning permission by the Planning Inspectorate on 5 February 2018.
- 6.7 The aforementioned appeal arose from the failure of the Council to determine the application within the statutory period, however in the Statement of Case submitted by the Council as part of the appeal it was confirmed that if the application had been determined it would have been refused for two reasons. The first reason would have related to the effect of the scale of the proposal on Elmstead Market and the Council's ability to manage growth through the plan-led approach and related to this the question of housing land supply in the District. The second reason for refusal would have related to the absence of a Planning Obligation to secure affordable housing, education and health contributions and the provision of open space.
- 6.8 The Planning Inspector concluded with respect to the first reason that:

“Whilst I recognise that there is tension between the scale of development proposed and the Council’s strategy for development in Elmstead Market, there is no firm evidence that its scale or location would lead to tangible harm to local services or facilities. The appeal site is reasonably sustainably located with regard to access to these facilities and to public transport. The Framework’s aim of seeking plan-led growth should be considered alongside its support for housing growth. In this case I have found that the housing land supply position in the District, among other factors, indicates that only moderate weight can be accorded to the relevant development plan policy. Overall, therefore, I find that the proposal would result in very limited conflict with the development plan strategy for the location of residential development.”

- 6.9 With respect to the second reason, relating to the absence of a S106 Planning Obligation, it was confirmed at the Appeal Hearing that this had been overcome with the submission of an Obligation which addressed affordable housing, education contributions and provision of open space.
- 6.10 The reserved matters under consideration as part of this detailed application are:
- Access;
 - Layout;
 - Scale;
 - Appearance; and
 - Landscape

Access

- 6.11 Whilst access was not approved at the outline stage, the illustrative layout drawing that accompanied that application indicated that there would be one central vehicular access into the site from School Road. The detailed scheme replicates that proposed arrangement and County Highways has raised no objections from a highway and transportation perspective.
- 6.12 The scheme includes a new pedestrian footpath link along the School Road frontage (but set behind the existing hedge boundary fronting the highway which will be retained and act as a soft edge to the street frontage) which would link with the existing footpath serving the school to the north and beyond into the wider settlement.
- 6.13 The existing Public Right of Way (PROW) which crossed the eastern end of the site in a north-south alignment will be retained. This provides the site with direct access to Clacton Road (A133) to the north and to the wider countryside to the south.
- 6.14 A new pedestrian link between the school and the proposed respite house will be created on the northern boundary of the site.

Layout

- 6.15 The relatively low density of development (at around 14 dwellings per hectare) would allow for a generous standard of road and footway width, ensuring that the internal road layout can safely and comfortably accommodate emergency services and waste collection services. All the houses and bungalows would benefit from a combination of garaging (either single or double) and/or surface parking, which in all instances would be compliant with parking standards.
- 6.16 Residential amenity for future residents would be acceptable having regard to privacy and avoidance of overshadowing, while garden sizes would be more than compliant with standards and indeed most will be well in excess of minimum standards, ranging from a minimum of 82sqm for a couple of the 2-bed terraced units up to in excess of 600sqm for some of the 4-bed detached houses.

- 6.17 In the opinion of officers, the layout has been carefully considered to reflect its urban edge setting. Key aspects of this include:
- Low density detached houses fronting onto School Road, set behind an existing native hedge belt to help retain the sylvan semi-rural nature of this road as a southern gateway into the village;
 - Low density detached housing backing onto the southern boundary which forms the new urban edge with open countryside to the south. New tree planting will be provided along the entire length of this boundary to further soften the transition between countryside and built development;
 - New public open space/green corridor along the northern boundary with 'Market Field School' and dwellings fronting Clacton Road, creating a good level of separation;
 - A highly articulated street layout which helps create a strong sense of place with key vista buildings and curved roads adding to the level of interest. Of particular note is the large oval green with central swale at the eastern end of the site, which acts as a cleverly designed end-stop to the development.

Scale and Appearance

- 6.18 The proposed height of dwellings throughout the site is predominantly two-storeys, with an element of 1½ storey almshouses and single storey bungalows. This scale of development is considered acceptable, particularly given the low density nature of the development, which allows for generous separation distances between plots which acts to break up the built form as viewed from its undeveloped surroundings. It should be noted that the proposed site density is just over 14 dwellings per hectare which taking into account the locality of the site on the edge of the village is considered acceptable.
- 6.19 In terms of appearance, the developer has sought to employ 12 different house types which help ensure that the scheme is visually diverse. The architecture is of a traditional vernacular with brick fascia walls, casement windows, stone string coursing, and a number of plots with chimney stacks. The almshouses include 'dutch' gable ends which will create interesting vistas at key nodal points within the new estate.
- 6.20 It is considered that the scheme as submitted will be acceptable in terms of scale and appearance and will be appropriate to its urban edge setting.

Landscaping

- 6.21 It is considered that the proposed scheme layout, particularly given its low density nature, provides for a strategic landscape approach which will facilitate the delivery of well thought out and usable open spaces which will establish a positive landscaping setting for the development whilst also aiding the transition from new built development to rural edge. However, specific detailed planting proposals are still required and accordingly this needs to be subject to condition.
- 6.22 In accordance with Planning Policy Guidance, conditions requiring such details can be imposed at Reserved Matters stage as they relate directly to a specific reserved matter. It is consequently recommended that conditions be imposed to secure an acceptable hard and soft landscaping scheme and to ensure its implementation and where necessary replacement within 5 years should planting not survive.

Other Matters

- 6.23 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as a site of international, national or local importance to nature conservation but the urban area of Elmstead Market does fall within the 'Zone of Influence' (Zol) of the Colne Estuary Special Protection Area (SPA) and Ramsar site. In the context of the Council's duty as 'competent authority' under the provisions of the Habitats Regulations, it is therefore anticipated that, without mitigation, new residential development in this location is *'likely to have a significant effect on one or more European designated sites through increased recreation pressure, either when considered 'alone' or 'in combination' with other plans or projects.'*
- 6.24 The Council has screened the proposed development and consider that it falls within the scope of the Essex Coast RAMS and as a result the Council has gone on to carry out a Habitats Regulations Assessment (HRA)(Stage 2 – Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation.
- 6.25 The mitigation described in the Appropriate Assessment is an off-site per dwelling tariff based financial contribution to mitigate direct recreational impacts at the European designated site. The financial contribution is to be secured through an appropriate and legally binding agreement.
- 6.26 In response to the Parish Council comments, the following observations are made:
- Swale location: the location of the swale is considered appropriate. It will essentially be a dry shallow depression within a wider oval green, which is designed to take surface water in only severe storm conditions. It will not be directly located adjacent to the PROW, with the new estate road bisecting these two features. The gardens to the plots immediately adjacent to the eastern boundary are substantial and at a minimum (plot 33) will be set back circa 20m from this common boundary, so there is no reasonable necessity to seek the relocation of the swale to this eastern extremity of the site.
 - Reduction of benefits for Market Field School; the applicant has confirmed that an area of land on the northern boundary of the site (adjacent to the respite unit) will be dedicated to the school for use for horticultural educational purposes i.e. allotments/poly-tunnel(s). A condition is recommended to ensure that this is delivered.
 - Covenant on home extensions: as reported above this is a low density scheme, with principally large detached plots with private amenity areas substantially above the Council's minimum standards. Furthermore, the Appeal Inspector in allowing the outline application did not consider it appropriate or necessary to remove permitted development rights from the site. This Reserved Matters application confirms the low density nature of the application and that removal of permitted development rights would not be justified in this instance.
 - Trust Housing: The S106 Obligation attached to the outline planning permission requires the provision of either a scheme to provide not less than 30% of the residential dwellings as Affordable Housing or the 'gifting' of 5 dwellings to the Council to be used solely as Social Rented Housing. The applicant has determined to pursue the 'gifted' unit option and the Council's Housing Enabling Officer has confirmed that these will be provided in the form of 2 x two-bed houses and 3 x three-bed houses (plots 36-40 inclusive).
 - Public Open Space: The S106 Obligation attached to the outline planning permission sets a requirement to provide an area of not less than 0.4989 hectares including the Play Area as 'Open Space Land'. The detailed application confirms that the scheme will deliver circa 0.5167 hectares as open space which exceeds this minimum requirement. In addition, it is worth noting that this calculation excludes the swale areas. As the swale area in the open space to the eastern end of the site will essentially be a dry feature (apart from in severe storm conditions), in reality this is also likely to be enjoyed as an area of informal recreation. Accordingly, the scheme is considered to deliver an appropriate level of on-site open space.

7. Conclusion

- 7.1 The application satisfies the requirements of the NPPF and the Development Plan for Tendring having regard to Access, Appearance, Landscaping, Layout and Scale and should be approved subject to the conditions as set out in this Report.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per dwelling

8.2 Conditions and Reasons

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan – 4177-0002 Rev P01
Site Plan – 4177-0001 Rev P18
House Type 1 – 4177-0101 Rev P05
House Type 2 – 4177-0201 Rev P03
House Type 3 – 4177-0301 Rev P03
House Type 5 – 4177-0501 Rev P03
House Type 7 – 4177-0701 Rev P04
House Type 7A – 4177-0701A Rev P05
House Type 8 – 4177-0801 Rev P04
House Type 9 – 4177-0901 Rev P04
House Type 10 – 4177-1101 Rev P02
House Type 15 – 4177-1501 Rev P03
House Type 16 – 4177-1601 Rev P03
House Type 17 – 4177-1701 Rev P03
House Type 24 – 4177-2901 Rev P01
House Type 25A – 4177-3001 Rev P01
House Types 10 & 11 (General Arrangement Plans & Elevations) – 4177-1001 Rev P04
House Types 10, 11 & 19 (General Arrangement Plans & Elevations) – 4177-2501 Rev P02
House Types 14 & 19 (General Arrangement Plans & Elevations) – 4177-2701 Rev P02
House Types 14 & 19 (Reduced) (General Arrangement Plans & Elevations) – 4177-2801 Rev P02
Garage Type 1 – Single Garage – 4177-1901 Rev P03
Garage Type 2 – Double Garage – 4177-2001 Rev P03
Cart Lodge – Triple – 3522-2101 Rev P03

Reason – For the avoidance of doubt and in the interests of proper planning.

2. No development shall commence until details of existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the agreed scheme prior to occupation.

Reason – To ensure a satisfactory form of development having particular regard to drainage and the provision of level access.

3. Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in accordance with drawing no. 4177-0001 Rev P18.

Reason – To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

4. Prior to the commencement of development, details of the estate roads and footpaths (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason – To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

5. Prior to the first occupation of the dwellings, details of cycle storage required to serve each dwelling shall be submitted to and approved in writing by the Local Planning Authority. All cycle storage so approved shall be provided prior to first occupation of the dwelling to which it relates and shall be retained thereafter as approved.

Reason – To ensure a satisfactory development in terms of appearance and functionality and sustainability, so that cycling is encouraged as a sustainable means of transport.

6. Notwithstanding the details shown on the submitted site plan , no development shall take place until:
 - a) There has been submitted to and approved in writing by the Local Planning Authority, a more detailed scheme of hard and soft landscaping works for the site, to include all areas of open space, all play areas, all amenity areas, all street trees, all verges and all other planted or open areas of the site. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication “BS 5837:2012 Trees in relation to design, demolition and construction. The development shall be carried out in accordance with the approved details.
 - b) Existing trees on the site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping (above), have been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Any trees dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with trees of appropriate size and species during the first planting season or in accordance with such other arrangement as may be agreed in writing with the Local Planning Authority.

Reason – To ensure a satisfactory standard of landscaping and the protection of retained trees.

7. A landscape implementation and management plan, including planting schedules and long term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved, in writing, by the Local Planning Authority prior to the first occupation of the development. The landscape implementation and management plan shall be carried out as approved in accordance with the details and timescales in the plan.

Reason – To ensure the timely implementation, management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

8. No street lighting or lighting of common area shall be installed until details of an illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason – In the interests of amenity to reduce the impact of night time illumination on the character of the area.

9. No development shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form.

Reason – To protect the amenities and privacy of occupiers of each plot and in the interests of wider visual amenities.

10. No development shall take place until precise details of the provision, siting, surface treatment of children's playspace together with details of the equipment to be provided and a timetable for the provision of the facility has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided in their entirety and be made available for use in accordance with the agreed timetable and thereafter retained for public use.

Reason – The need for playspace close to dwellings is essential to help meet the needs of the development.

11. No development shall take place until precise details of the provision of a parcel of land close to the northern boundary of the site, to be dedicated to the adjoining Market Field School for use for horticultural educational purposes (i.e. allotments/poly-tunnel(s)), to include a timetable for the provision of the agreed site, has been submitted to and approved in writing by the Local Planning Authority. The approved dedication of the agreed parcel of land to the school shall be in accordance with the agreed timetable and thereafter retained for such purposes.

Reason – To accord with details agreed as part of the planning application submission.

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address these concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways Informatives

Informative 1: All housing developments in Essex which would result in the creation of a new street more than five dwelling units communally served by a single all-purpose access) will be

subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.

Informative 2: Prior to occupation, the development shall be served by a system of operational street lighting of design approved from the Highway Authority along the Primary route, which shall thereafter be maintained in good repair.

Informative 3: The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

Informative 4: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

Other Informatives

Essex Police provide a free impartial service to any applicant who wishes to incorporate Crime Prevention through Environmental Design and apply for the police preferred 'Secured by Design' accreditation. The applicant is invited to contact Essex Police via designingoutcrime@essex.pnn.police.uk

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.

- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

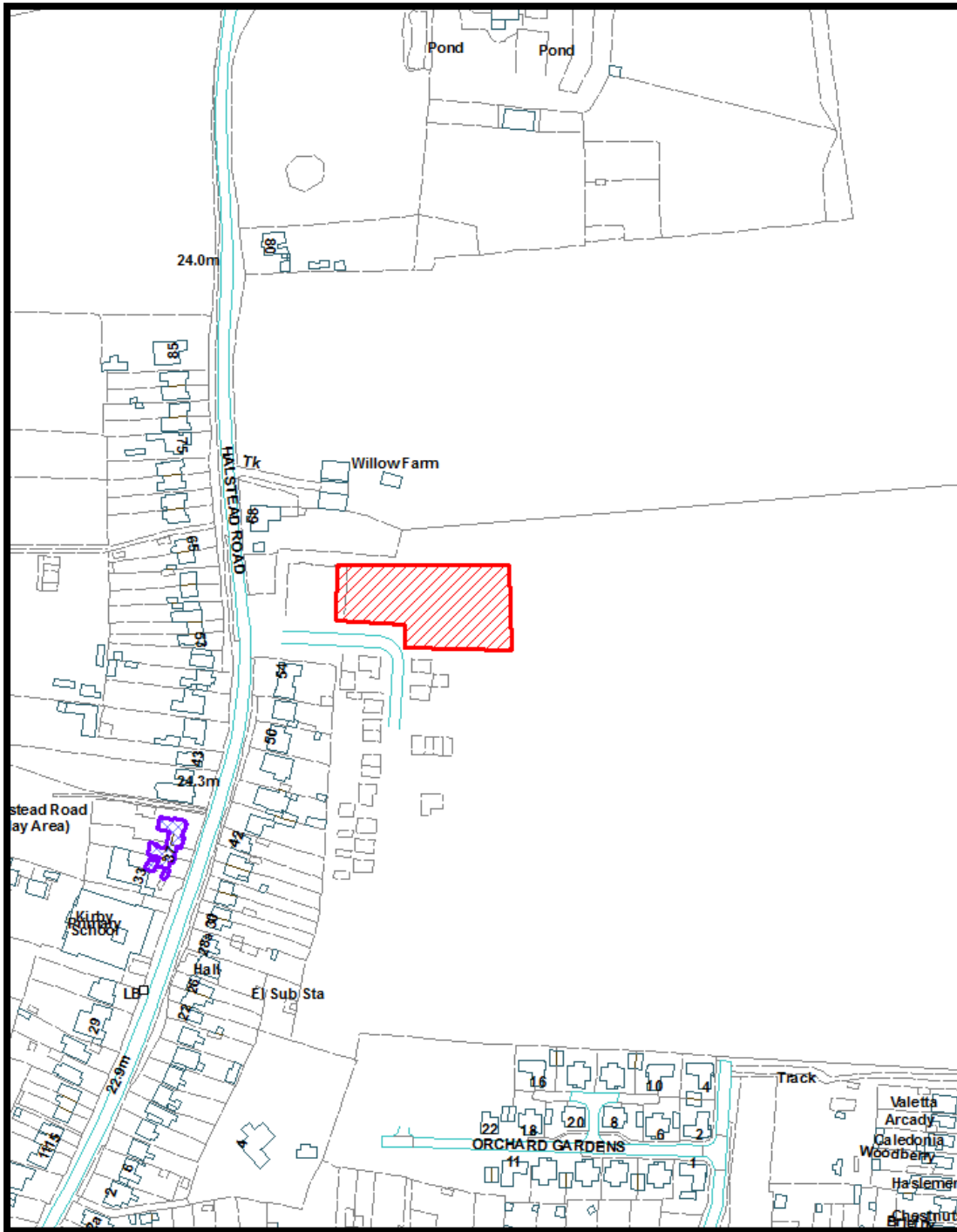
None

PLANNING COMMITTEE

17 December 2019

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATION – 19/00283/FUL – LAND EAST OF HALSTEAD ROAD KIRBY CROSS FRINTON ON SEA CO13 0LR



DO NOT SCALE

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Application:	19/00283/FUL	Town / Parish: Frinton & Walton Town Council
Applicant:	Miss Hannah Short - Linden Ltd	
Address:	Land East of Halstead Road Kirby Cross	
Development:	Development of 13 dwellings with Associated Landscaping and Infrastructure.	

1. Executive Summary

- 1.1 This application has been referred to Planning Committee at the request of Councillor Clifton due to concerns relating to; affordable housing provision, the design and street scene impact, poor layout and density, highway safety and parking.
- 1.2 This application site forms part of larger part of land stretching form Halstead Road to Buxton Avenue on the northern side of Kirby Cross.
- 1.3 Outline consent for the 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 enhancement; a sustainable drainage system including detention basin and seales and other related infrastructure and services provision was granted at appeal on 6th September 2016. Phase 1 and 2 of the development have already been approved and are currently under construction. Phase 3 situated towards the south-west of the site, to the east of Phase 1 of the development was recently granted permission.
- 1.4 This land was shown as a community hub with either a 40 bedroom care home or a medical facility under the original Outline permission 15/01234/OUT. The applicants state there has been no interest in either use so are now proposing housing.
- 1.5 This application has been amended and now seeks full planning permission for 13 dwellings with associated landscaping and infrastructure.
- 1.6 The proposal includes a mix of traditional two storey, two and three bedroom houses, in compliance with the ridge height parameters as per the approved Outline Parameter Plan.
- 1.7 The scheme that forms this full application will provide 4 affordable homes (35%), comprising two two-bedroom and two three-bedroom houses.
- 1.8 Housing Mix:
 - 2 bed open market house x 5
 - 3 bed open market house x 4
 - 2 bed affordable house x 2
 - 3 bed affordable house x 2

- 1.9 In conclusion, the proposed development would not result in any harmful impact upon visual amenity or neighbouring amenities and provides additional housing and sufficient additional parking spaces to serve the proposed units.
- 1.10 A legal agreement is currently being prepared to account for a contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS).

Recommendation:

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):

- **Financial Contribution towards RAMS**
- **Financial contribution towards Open Space**
- **Affordable housing contribution 4 dwellings**

b) Subject to the conditions stated in section 8.2.

c) That the Head of Planning be authorised to refuse planning permission in the event that such legal argument 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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG3 Residential Development within Defined Settlements

HG3A Mixed Communities

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

COM6 Provision of Recreational Open Space for New Residential Development

COM19 Contaminated Land

COM26 Contributions to Education Provision

EN1 Landscape Character

EN2 Local Green Gaps

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN13 Sustainable Drainage Systems

EN29 Archaeology

TR1A Development Affecting Highways

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

Tending District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP3 Green Infrastructure

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards
LP4 Housing Layout
LP5 Affordable and Council Housing
PPL1 Development and Flood Risk
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL6 Strategic Green Gaps
PPL7 Archaeology
CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) 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 48 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. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF 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 an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

3. Relevant Planning History

15/30107/PREAPP	Request for EIA screening opinion for residential development.		11.05.2015
15/30145/PREAPP	Erection of up to 270 dwellings and 40 bed care home, with primary access from Halstead Road and secondary access from Woburn Avenue and Buckfast Avenue, plus car parking for the school and associated open space and play area, SuDs and other infrastructure works.		23.07.2015
15/01234/OUT	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	Refused	07.12.2015

	other related infrastructure and services provision.		
17/30172/PREAPP	240 proposed dwellings, following on from appeal approval 15/01234/OUT. Pre-application advice for DETAIL application.		11.08.2017
17/01895/DETAIL	Phase 1 reserved matters application (49 units) for details of the appearance, landscaping, layout and scale.	Approved	07.03.2018
17/02145/DETAIL	Phase 2 reserved matters application for 28 bungalows on land off Woburn Avenue and Buckfast Avenue.	Approved	19.03.2018
18/00355/DISCON	Discharge of conditions 11 (Phasing Plan and Programme), 12 (Green Infrastructure Management Plan), 13 (Foul Water Strategy), 14 (Surface Water Drainage Strategy), 15 (Written Scheme of Archaeological Investigation), 16 (Construction Method Statement), 20 (Design Code) and 21 (Landscaping Details) of approved planning appeal APP/P1560/W/15/3140113 (planning application 15/01234/OUT).	Approved	19.06.2019
18/00366/DISCON	Discharge of conditions 4 (Ground/Floor Levels, External Lighting, Means of Enclosure, Bicycle Parking and Refuse/Recycling Storage) of approved application 15/01234/OUT (allowed on appeal APP/P1560/W/15/3140113), in relation to Phase 1 only.	Approved	19.06.2019
18/00414/DISCON	Discharge of conditions 4 (Levels, Street Lighting and Refuse details), 10 (Arboricultural Method Statement), 13 (Foul Water Strategy) and 14 (Surface Water Drainage) of approved planning appeal APP/P1560/W/15/3140113 to planning application 15/01234/OUT, in relation to Phase 2 only.	Current	
18/00503/DISCON	Discharge of conditions 6 (roads &	Approved	18.03.2019

footways) and 11 (planning out crime) of 17/01895/DETAIL, in relation to Phase 1 only.

4. Consultations

Frinton and Walton Town Council

Provide the following comments;

State that assurances that these properties are affordable or part buy have not been met.

Recommend the application be refused.

Building Control and Access Officer
Environmental Health

Private road needs to be designed to support a fire fighting appliance.

In order to minimise potential nuisance to nearby existing residents caused by construction works, Pollution and Environmental Control ask that the following is conditioned; Prior to the commencement of any construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control.

Noise Control

1) The use of barriers to mitigate the impact of noisy operations will be used where possible.

2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

3) The selection and use of machinery to operate on site, and working practices to be adopted will as a minimum requirement, be compliant with the standards laid out in British Standard 5228:2014.

4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works. o Emission Control 1) All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and

other relevant agencies. 2) No materials produced as a result of the site development or clearance shall be burned on site. All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress. 3) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Tree & Landscape Officer

There are no trees or other significant vegetation on the application site. The application is supported by a detailed soft landscaping plan that shows an adequate level of soft landscaping to soften and enhance the appearance of the completed development.

Anglian Water Services Ltd

The submitted surface water drainage information (Flood Risk Assessment/Drainage Strategy) and proposed method of surface water discharge does not relate to an Anglian Water owned asset. As such, it is outside of our jurisdiction and we are unable to provide comments on the suitability of the surface water discharge. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse.

Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented. A connection to the public surface water sewer may only be permitted once the requirements of the surface water hierarchy as detailed in Building Regulations Part H have been satisfied. This will include evidence of the percolation test logs and investigations in to discharging the flows to a watercourse proven to be unfeasible.

Essex County Council
Archaeology

The Archaeology team provide the following comments:

“The application relates to a proposed development which is situated on land that has been evaluated through archaeological trial trenching. No further fieldwork was required within the area of Phase 3 and there is no recommendation for any archaeological investigation for the above application.”

Essex Wildlife Trust
Natural England

No Comments.

It has been identified that this development falls within the ‘Zone of Influence’ (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information. In the context of your duty as competent authority under the provisions of the Habitats Regulations², it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered ‘in combination’ with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring District Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to

address such effects, which will be costed and funded through developer contributions. We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

NHS East Essex CCG

Provide the following comments;

The CCG are not in a position to agree to the land option for a healthcare facility. Whilst we recognise that there is a need for additional clinical capacity in the area, there are a number of factors that need to be considered including affordability of revenue for a new build, capital fund contributions to build, workforce to run the facility and how a facility would fit in with the current policy and Primary Care Network Structure.

On this occasion I believe the best route would be not to agree to an offer of land, but to commit to the S106 mitigation in line with the section 106 signed agreement which is secured and I note that part payment of the agreement is available to spend now.

We continue to work very closely with the primary care providers in the area and the Frinton and Walton Parish council in order to ensure the appropriate provision of Healthcare services in the area.

Waste Management

Lead Local Flood Authority position Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following:

- This site should be subject to the drainage conditions imposed on the wider drainage strategy
- Any questions raised within this response should be directed to the applicant and the response should be provided to the LLFA for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

There is currently a deficit of -14.12 hectares of equipped play in Frinton, Walton & Kirby. Any additional development in Kirby will increase demand on already stretched play areas. The nearest play area to the proposed development is Halstead Road, Kirby

Open Space and Play

approximately 0.2 miles from the proposed development. The site is well used by the local community and would struggle to cope with any additional usage. Recommendation Due to the significant lack of play facilities in the area it is felt that a contribution towards play is justified and relevant to the planning application. Additional play equipment will be installed in Halstead Road play area.

ECC Highways Dept

Essex County Council Highways have been consulted on the application and following receipt of amended plans raise no objection to the proposals subject to the imposition of the following conditions to cover the following:

- timings of internal road and footways;
- details of the estate roads and footways;
- provision and retention of car parking and turning areas;
- sizes of parking spaces and garages and provision of cycle parking in accordance with the Essex Parking Standards.

5. **Representations**

Sixty three letters of objection and a petition containing 213 signatures has been received which raise the following concerns;

- Exacerbate existing parking problems.
- Noise and fumes from increased traffic.
- Noise, disturbance, obstruction and fumes from construction traffic.
- Access for emergency and refuse vehicles will be worsened.
- No disabled parking bays.
- Detrimental to residential amenities.
- Overdevelopment of the site.
- Drains/Sewage would not cope with the demands of further flats.
- Existing garages too small.
- Leaseholders not notified of proposed development.
- Overlooking and harm to privacy.
- Too high and out of character.
- Loss of light.
- Access to new spaces blocked by existing garages and parked vehicles.
- Loss of property values.
- Existing amenities will not cope with the increase of housing in this area.
- Area cannot cope with the additional traffic
- Noise Pollution during construction
- Were assured by Linden Homes that there would be no homes built in this area and it would be reserved for open space.
- Lack of detail in regard to infrastructure and detrimental to the rural aspect of the locality.

The Parish Council have made the following comments on the application

- Assurances that these properties are affordable or part buy have not been met.

6. Assessment

6.1 The main considerations in this instance are;

- Site Context;
- Proposal;
- Principle of Residential Development;
- Affordable Housing;
- Design and Appearance;
- Landscaping;
- Layout;
- Scale;
- Highway Safety and Parking Provision;
- Impact on Residential Amenity;
- Financial Contribution – Recreational Impact; and,
- Financial Contribution – Open Space / Play Space;
- Other Issues.

Site Context

6.2. The application site forms part of larger part of land stretching from Halstead Road to Buxton Avenue on the northern side of Kirby Cross.

6.3. Outline consent for the 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 enhancement; a sustainable drainage system including detention basin and seales and other related infrastructure and services provision was granted at appeal on 6th September 2016. Phase 1 and 2 of the development have already been approved and are currently under construction. Phase 3 situated towards the south-west of the site, to the east of Phase 1 of the development was recently granted permission.

6.4. The site consists of just under 0.36 hectares (ha) of generally level arable land north of the built-up area of Kirby Cross, a settlement west of the coastal towns of Frinton-on-Sea and Walton-on-the-Naze.

6.5. This land was shown as a community hub with either a 40 bedroom care home or a medical facility under the original Outline permission 15/01234/OUT. The applicants state there has been no interest in either use so are now proposing housing.

6.6. A S106 legal agreement was secured at outline planning permission stage requiring:

6.7. The provision of affordable housing, contributions towards education and healthcare, the provision and maintenance of public open space; and a residential travel information pack including bus vouchers.

Proposal

6.8. Linden Limited have stated in their submitted Planning Statement which accompanies this planning application that they have tested the care home/healthcare facility market and found no demand for such use for the site, as such they see an opportunity to provide additional housing on the site as an alternative.

6.9. This application therefore seeks full planning permission for 13 dwellings (Amended from 15) on the site (at land North of Barley Road, Kirby Cross) and includes a mix of traditional two storey, two and three bedroom houses, in compliance with the ridge height parameters as per the approved Outline parameter plan.

6.10. The following documents and amended plans have been submitted in support of the application;

27 Jun 2019	Drawing	P121 b Amended illustrative street scenes
27 Jun 2019	Drawing	P114 b Amended hardwick-mountford semi-detached proposed elevations
27 Jun 2019	Drawing	P113 b Amended hardwick-mountford semi-detached - proposed floor plans
27 Jun 2019	Drawing	P109 b Amended hardwick semi-detached - proposed elevations
27 Jun 2019	Drawing	P106 b Amended refuse strategy layout
27 Jun 2019	Drawing	P102 b Amended proposed block plan
27 Jun 2019	Drawing	P101 g Amended proposed site layout plan
27 Jun 2019	Drawing	18284/c101 a Amended coloured site layout plan
27 Jun 2019	Other	Amended schedule of accommodation
27 Jun 2019	Other	Amended drawing issue sheet
27 Jun 2019	Report	Amended soft landscape management and maintenance plan
27 Jun 2019	Drawing	Lhe132/sk2 a Amended fire and refuse tracking
27 Jun 2019	Drawing	P107 b Amended garden size layout
27 Jun 2019	Drawing	P104 b Amended boundary materials layout
27 Jun 2019	Drawing	18284/c102 a Amended coloured street scenes
27 Jun 2019	Other	Amended landscape drawing issue sheet
27 Jun 2019	Report	Amended planning statement
27 Jun 2019	Drawing	P103 b Amended building materials layout
27 Jun 2019	Report	Amended design and access statement
27 Jun 2019	Drawing	P105 b Amended surface materials layout
27 Jun 2019	Drawing	Lin22259-11 a Amended landscape proposals

Amended Habitat Regulation Assessment

Amended Planning Statement

Principle of Development

- 6.11. The principle of residential development on this site has been established by the granting of the outline application at appeal. To reflect this decision the site is now included within the Settlement Development Boundary in the Tendring District Local Plan (2013-2033) and Beyond Publication Draft (Emerging Plan
- 6.12. With regards to the provision of the aforementioned care home and community hub, under the original Outline permission (15/01234/OUT) the Council cannot insist on its provision as they were not primary considerations in the proposal being acceptable. Furthermore the S106 legal agreement is worded so that if the medical facility is not built then the developer will have to pay a healthcare contribution of £389.67 per dwelling, payable to NHS England.
- 6.13. With regards to the local Clinical Commissioning Group, (CCGs) were created following the Health and Social Care Act in 2012, and replaced Primary Care Trusts on 1 April 2013.
- 6.14. They are clinically-led statutory NHS bodies responsible for the planning and commissioning of health care services for their local area. As of 1 April 2019 there are 191 CCGs in England. Commissioning is about getting the best possible health outcomes for the local population. This involves assessing local needs, deciding priorities and strategies, and then buying services on behalf of the population from providers such as hospitals, clinics, community health bodies, etc. It is an ongoing process. CCGs must constantly respond and adapt to changing local circumstances. They are responsible for the health of their entire population, and measured by how much they improve outcomes.
- 6.15. The CCG has responded that they raise no objection to the proposals and confirm that they are not in a position to agree to the land option for a healthcare facility.
- 6.16. They go on to state that whilst they recognise that there is a need for additional clinical capacity in the area, there are a number of factors that need to be considered including affordability of revenue for a new build, capital fund contributions to build, workforce to run the facility and how a facility would fit in with the current policy and Primary Care Network Structure.
- 6.17. As such they have declined to take up the option to provide a healthcare facility and have agreed to a commitment for a S106 mitigation in line with the section 106 signed agreement.
- 6.18. The applicants have also provided the council with written correspondence that they have marketed the site for 2 years without much success with regards to the care home and medical facility (Appendix A).

Affordable Housing

- 6.19. The wider development will provide 18 homes classified as affordable housing as per the S106 Agreement. There will be eight one-bedroom flats, six two-bedroom houses and four three-bedroom houses. These will be gifted to Tendring District Council and allocated to people on the housing waiting list. 9 of these affordable dwellings were proposed for the third phase of development with the balance to be provided for within Phase 4.
- 6.20. The scheme that forms this full application will provide 4 affordable homes (35%), comprising two two-bedroom and two three-bedroom houses.
- Housing Mix:
 - 2 bed open market house x 5
 - 3 bed open market house x 4
 - 2 bed affordable house x 2
 - 3 bed affordable house x 2
 - Details of garden sizes, (drawing 18284 - P107B (Garden Size Layout))
 - Fully policy compliant parking requirements, (drawing 18284 - P102B (Site Layout))
 - Vehicular access from Barley Road
 - Soft Landscaping for each individual plot

Design and Appearance

- 6.21. The detailed design of the dwellings is varied with different roof forms, and use of porches and window detailing which adds a somewhat traditional element to the design and provides visual interest.
- 6.22. The surrounding area comprises of a mixture of type and styles of dwellings, using a range of materials all fairly traditional in appearance, it is therefore considered that the design of the proposed dwellings are in keeping with the character of the area. The design and appearance is in keeping with previous approved Phases that have been granted reserved matters consent.

Landscaping

- 6.23. The land subject to this application does not contain any significant trees other than those on the southern boundary. The trees, hedgerows and hedges are associated with the adjacent residential area and do not merit formal legal protection. As part of the application detailed landscaping plans have been submitted; the soft landscaping proposals are comprehensive and sufficiently detailed to enhance the appearance of the development.
- 6.24. Whilst the location of boundary treatments have been provided no details of the type, height and design have been. However, this is an issue that can be dealt with by condition.

Layout

- 6.25. Each of the proposed dwellings, have their own private amenity space. Policy HG9 of the Saved Local Plan requires 50 sq.m for 1 bed dwellings; 75 sq.m for 2 bed dwellings and 100 sq.m for dwellings with 3 or more beds. For flats, the policy sets out a requirement for either: a minimum of 25 sq.m per flat provided communally; or a minimum of 50 sq.m private garden area for a ground floor flat or maisonette and a minimum balcony area of 5 sq.m for units above. All the dwellings are provided with garden areas which meet or exceed this standard.
- 6.26. All of the proposed dwellings address the street and create an active street frontage.
- 6.27. Parking is provided either to the front or sides of the dwellings, in appropriate locations throughout the site and therefore do not dominate the proposed development.
- 6.28. In conclusion there is no objection to the layout of the proposed development

Scale

- 6.29. Conditions imposed on the outline consent restricts development to predominately two storeys in height up to 10m with the northern part of the site being restricted to bungalows up to 7 metres in height. The proposed development complies with this condition and therefore the scale of the dwellings is considered acceptable.

Highway Safety/Parking

- 6.30. The proposed access was agreed at outline stage and therefore is not under consideration as part of this application. However, the internal layout is a matter for consideration as part of this application.
- 6.31. Essex County Council Highways have been consulted on the application and following receipt of amended plans raise no objection to the proposals subject to the imposition of the following conditions to cover the following:
- timings of internal road and footways;
 - details of the estate roads and footways;
 - provision and retention of car parking and turning areas;
 - sizes of parking spaces and garages and provision of cycle parking in accordance with the Essex Parking Standards.
- 6.32. Essex County Council Parking Standards state that for one bedroom dwellings 1 off-street parking space is provided and for dwellings with 2 or more bedrooms a minimum of 2 off-street parking spaces are provided. Furthermore, 0.25 space per dwelling should be provided for visitor parking. Each parking space should measure 5.5 metres by 2.9 metres and if a garage is to be relied on it should measure 7 metres by 3 metres internally. The plans show that the proposal provides parking in accordance with the adopted standards.

- 6.33. Provision for cycle storage has not been shown on the plans. However, the garages are of a sufficient size to provide cycle parking and all dwellings have space within the garden area for a shed. Therefore it is considered that adequate cycle parking can be provided and a condition is not considered necessary.
- 6.34. The proposal is therefore acceptable in terms of highway safety. As the plans show compliance with the Essex Parking Standards in relation to sizes of parking spaces and garages it is not necessary to impose conditions to cover this matter, as requested by the Highway Authority.

Impact on Residential Amenity

- 6.35. The Essex Design Guide states that 'with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable'.
- 6.36. The closest residential property (Willow Farm) is a considerable distance from the proposed development and is unlikely to suffer loss of light, privacy or residential amenity as a result of the proposals.
- 6.37. The proposed dwellings are situated between 5 and 20 metres from the eastern boundary of the site. The distance between the rear elevations of the proposed Plots meets the guidance as set out in the Essex Design Guide.
- 6.38. The relationship between the proposed dwellings is also considered acceptable with adequate separation to provide good standards of privacy and light.

Financial Contribution – RAMS

- 6.39. Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation); within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.
- 6.40. Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be a proportionate financial contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites.

6.41. A unilateral undertaking is currently being prepared to secure this legal obligation and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Open Space Contribution

6.42. Policy COM6 in the Tendring District Local Plan 2007(TDLP) seeks open space provision or a contribution towards it, from all residential development which generates additional demand for open space sport and recreation where there is a proven need.

6.43. Whilst demand resulting from 1 dwelling is not significant in itself, the cumulative effect of many single units (or small sites) soon become significant in itself, the cumulative effect of many single units (or small sites) soon become significant. Therefore a contribution towards provision is reasonable to ensure that open space, sport and recreation provision is equitable.

6.44. The open Space Officer has stated that there is currently a deficit of -14.12 hectares of equipped play in Frinton, Walton & Kirby. And confirmed that any additional development in Kirby will increase demand on already stretched play areas.

6.45. The nearest play area to the proposed development is approximately 0.2 miles from the proposed development. The site is well used by the local community and would struggle to cope with any additional usage.

6.46. It is recommended that due to the significant lack of play facilities in the area it is felt that a contribution towards play is justified and relevant to the planning application. Additional play equipment will be installed in Halstead Road play area

6.47. A contribution is therefore sought of £11,830 for the 2 bed units and £13,518 for the 3 bed units.

Other issues

6.48. None

7 Conclusion

7.1. In conclusion, the proposed development would not result in any harmful impact upon visual amenity or neighbouring amenities and provides a site layout and sufficient additional parking spaces to serve the proposed units.

8 Recommendation

- 8.1. The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS	£122.30 per dwelling
Financial contribution towards Open Space	£11,830 for the 2 bed units £13,518 for the 3 bed units
Affordable housing contribution	4 dwellings

- 8.2. As established through the granting of outline application 15/01234/OUT at appeal, the principle of residential development on this site is acceptable.
- 8.3. The details design, layout, landscaping and scale are considered acceptable. The proposal would result in no significant material harm to residential amenity or highway safety and the application is recommended for approval.

Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved Drawing Nos:

Reason - For the avoidance of doubt and in the interests of proper planning.

- 2) All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - In the interests of visual amenity and the character of the area.

- 3) Prior to the first occupation of any of the proposed development hereby permitted the internal road and footway layout as shown on the approved plans shall be provided.

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

- 4) Prior to the commencement of above ground development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the

Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

- 5) The development shall not be occupied until such time as the car parking and turning areas as shown on the approved plans have been provided. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 6) No development shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form.

Reason - To protect the amenities and privacy of occupiers of the adjoining property.

8.4. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Highways Informatives

Informative 1: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Building Regulations Informative

The designer should ensure that the means of escape meet BS5588-1:1990.

9 Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1. In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2. A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3. B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4. C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6. The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.

- 9.7. It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8. In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9. You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10. It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11. Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12. The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

9. Background Papers

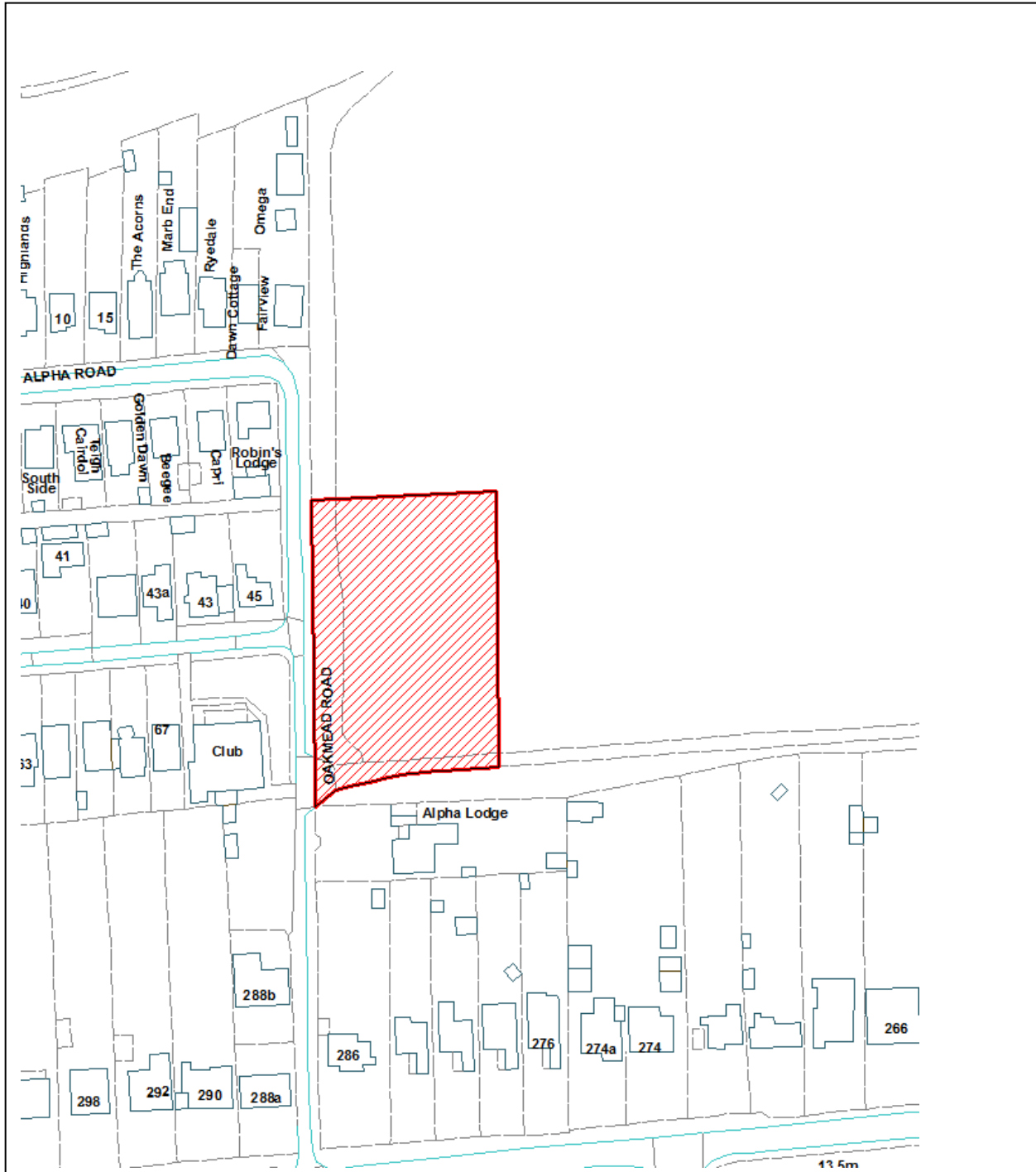
Marketing/Correspondence Care Home/Medical Facility.

PLANNING COMMITTEE

17th December 2019

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION – 19/00610/FUL – LAND AT OAKMEAD ROAD ST OSYTH CO16 8NW



DO NOT SCALE

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Application: 19/00610/FUL

Town / Parish: St Osyth Parish Council

Applicant: Mr Parsons

Address: Land at Oakmead Road St Osyth Essex CO16 8NW

Development: Construction of 4 No detached houses and access road off existing drive.

1. Executive Summary

- 1.1 This full application follows outline application 16/01611/OUT approved by the Planning Committee at their meeting on the 29th March 2017 at which time Members requested that any detail application be brought back to the Committee for determination. The application was originally submitted as a reserved matters application but due to the reduction in the number of dwellings from the 5 approved at outline to the 4 now proposed, the application must be dealt with as a full planning application. Although the application type is different, the application is therefore before Members to satisfy their request at the meeting on the 29th March 2017 to deal with the detailed design of the development.
- 1.2 The principle of residential development for 5 dwellings has been established through the approval of outline application 16/01611/OUT. This application is now considering the development for the erection of 4 detached dwellings.
- 1.3 Outline application 16/01611/OUT was approved by members subject to 15 conditions, including the requirement for the submission of some particulars concurrently with the reserved matters application. These being; an ecological management scheme and mitigation plan (condition 12), a surface water drainage strategy (condition 14) and a foul water drainage strategy (condition 15). Conditions 14 and 15 were added by Members in addition to those recommended by officers. As the application was originally submitted as a reserved matters application, all the information to accord with the conditions imposed on the outline permission accompanies this application.
- 1.4 The application site is situated on the eastern side of Oakmead Road forming part of an open area of lawned land enclosed along the northern and western boundaries by an established hedgerow (removed in part) appearing as part of 262 Point Clear Road. The site is surrounded by existing residential development; to the north-west on Alpha Road, to the west of the site and to the south and east fronting Point Clear Road. To the north and in line with the application site are mobile homes sited at The Orchards Caravan Park.
- 1.5 The detailed design and access arrangement has been revised following discussions with Planning Officers and is now considered to be acceptable. The application proposes 4 no. detached, 1.5 storey, 3 bed dwellings all of a similar design with a central gable feature to the front and rear (including a balcony to the rear). The dwellings are to have a rendered finish with slate roof tiles. Plots 2 and 4 include some cladding to the front elevations to add variation to the development within the street scene. The dwellings are to be served by a new drive off the existing access serving 262 Point Clear Road.
- 1.6 The dwellings front Oakmead Road in a linear arrangement, are sited centrally within their individual plots, each served by two parking spaces to their frontage and each served by a rear private garden area in excess of 200 square metres. Landscaping for the development includes the retention and reinforcement of the existing front boundary hedgerow and new planting to the site perimeters and individual plot boundaries. Close boarded fence will divide the private garden area.

- 1.7 The layout responds appropriately to the character of the area and provides sufficient parking, turning and private amenity space for the dwellings. The scale, appearance and finish of the properties are considered acceptable in this mixed residential character area. The landscaping assimilates the development into the site and its setting, screening and softening the visual impact within Oakmead Road and any wider landscape impact. The use of the existing access to serve a further 4 dwellings (5 including 262 Point Clear Road) will not result in any material harm to highway safety.
- 1.8 Sufficient distance is achieved between the development and neighbouring dwellings on the opposite side of the road to safeguard their residential amenities. Spacing between the proposed dwellings, and private gardens are in excess of policy standards and secure a good level of amenity for future occupants. The inward facing windows within the side elevations have been amended following concerns with privacy levels. The proposed balconies will allow some overlooking between the new dwellings but are somewhat screened by the gable overhang. Nevertheless, prospective buyers will be aware of the detailed design of the properties.
- 1.9 An Ecological Management Scheme has been submitted which includes a time table for implementation detailing the installation of hedgehog friendly fencing, bird boxes and the planting of trees, shrubs and hedgerows prior to the completion of construction and details of how the ecological features are to be managed. Officers are satisfied that the scheme is acceptable and also meets the aims of the condition imposed on the outline permission.
- 1.10 Surface Water will be directed to the north of the site and connection made into the existing ditch within the applicant's land. The water discharging into the ditch will be attenuated with a swale of an appropriate size for this minor scale development. The topography of the site means that the water falls naturally towards the ditch reducing any risk of flooding either on the application site or nearby. A foul water connection to the main sewer is available in Oakmead Road and the proposed houses will connect to this via a gravity connection. Officers are satisfied that the scheme is acceptable and also meets the aims of the conditions imposed on the outline permission.
- 1.11 A legal agreement has been completed to account for a financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and toward enhancements to the existing Point Clear play area at Dumont Avenue.
- 1.12 The principle of residential development is established by the approval of outline application 16/01611/OUT. The application provides a development that is acceptable in terms of design, highways, trees and landscaping, biodiversity, drainage and residential amenity considerations and is recommended for approval.

Recommendation: Approval

Subject to the conditions stated in section 8.2.

A legal agreement has been completed to account for contributions towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and toward enhancements to the existing Point Clear play area at Dumont Avenue.

2. Planning Policy

The following Local and National Planning Policies are relevant to this planning application.

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN3 Coastal Protection Belt

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL1 Managing Growth

SPL3 Sustainable Design

LP1 Housing Supply

LP4 Housing Layout

PPL2 Coastal Protection Belt

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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 48 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. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF 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 an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

3. **Relevant Planning History**

03/00750/FUL	Variation of Condition 02 imposed upon planning permission 02/00105/FUL to allow recreational use of horses owned by the applicant to be ridden by the public.	Refused	06.06.2003
10/00233/FUL	Retrospective application for conversion of swimming pool building to 2 bed bungalow.	Refused	05.05.2010

10/00933/FUL	Change of use of swimming pool conversion for residential use.	Refused	26.01.2011
13/00163/FUL	To use annexe as separate holiday accommodation for holidays and to support Charter Fishing business which operates out of Brightlingsea.	Approved	15.04.2013
16/00946/FUL	Extension and change of use to self-contained permanent dwelling.	Approved	22.09.2016
16/01611/OUT	Proposed 5 No. detached dwellings with associated garages and parking.	Approved	30.03.2017

4. Consultations

ECC Highways Dept
AMENDED COMMENTS

It is noted that Oakmead Road is classified on the s36 List of Streets as a 'Private Street' and whilst maintenance of the route is not undertaken by Essex County Council, a highway right exists over the route and as such Essex County Council has a duty to protect the rights of the highway user. This Authority has assessed the details of this application and having regard to the fact that this part of Oakmead Road is close to existing bus stops, therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. Prior to the first occupation the accesses at their centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 17 metres in both directions, as measured from and along the nearside edge of the carriageway; as shown in principal on drawing no. 835/10 Rev. D. Such vehicular visibility splays shall be provided before the accesses are first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the accesses and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

2. Prior to first occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose; as shown in principal on drawing no. 835/10 Rev. D.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway

safety in accordance with policy DM1.

3. Prior to first occupation of the development the vehicular accesses shall be constructed at right angles to the proposed carriageway. The width of the access at its junction with the highway shall not be less than 5.5 metres shall be retained at that width for 6 metres within the site.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

4. No unbound materials shall be used in the surface treatment of any proposed vehicular access within 6 metres of the carriageway.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

5. The existing gates at the private vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the footway / cycleway or where no provision of footway/cycleway is present, the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1.

6. Prior to first occupation of the development vehicle parking shall be provided in accordance with the EPOA Parking Standards as shown in principle in the proposed Site Plan, drawing no.835/10 Rev D constructed ready for use. The vehicle parking area and associated turning area shall be retained in the agreed form at all times.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

7. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

8. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of

charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

9. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

10. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets

does not occur and to ensure that loose materials and spoil are not brought out onto

the highway in the interests of highway safety and Policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at:

development.management@essexhighways.org or by
post to:
SMO1 ' Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

ECC Highways Dept
ORIGINAL COMMENTS

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. Prior to the first occupation the accesses at their centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 17 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the accesses are first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the accesses and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

2. Prior to first occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

3. Prior to first occupation of the development the vehicular accesses shall be constructed at right angles to the proposed carriageway. The width of the access at its junction with the highway shall not be less than 4.1 metres shall be retained at that width for 6 metres within the site.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

4. No unbound materials shall be used in the surface treatment of any proposed vehicular access within 6 metres of the carriageway.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

5. All double garages should have a minimum internal measurement of length 7m x 5.5m.

Reason: To encourage the use of garages for their

intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

6. Prior to first occupation of the development vehicle parking shall be provided in accordance with the EPOA Parking Standards as shown in principle in the Proposed Site Plan, drawing no.835/10 constructed ready for use. The vehicle parking area and associated turning area shall be retained in the agreed form at all times.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

7. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

8. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

9. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1

10. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway/carriageway (delete as appropriate).

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway/carriageway (delete as appropriate) is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the

County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

Informative 2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 3: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org or by post to:

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

5. Representations

- 5.1 St. Osyth Parish Council strongly object to this application. The objections raised can be summarised and addressed as follows;
- Differs significantly from the original proposal 16/01611/OUT.
16/01611/OUT was approved with all matters reserved and any plans previously considered were indicative only. The principle of residential development was approved. This application now seeks full planning permission.
 - Creation of 2 accesses on narrow lane with no footpath harmful to pedestrian and highway safety.
The amended plans now propose to access the development from the existing access serving 262 Point Cleat Road. No new accesses are being created a part of the revised application.
 - Removal of hedgerow.
The amended plans now include the retention and enhancement of the existing front boundary hedgerow.
 - Insufficient visibility from new accesses.

The block plan shows that the access arrangements and visibility meet highway safety requirements.

- No right of access onto private lane.
- Future occupants will be responsible for private lane maintenance.
Rights of access, land ownership and maintenance of the highway are not material planning considerations and are legal matters between relevant parties.
- The current application now includes the provision of a surface water surge pond, which was absent from the original application. Whilst this may be seen as an attempt by the applicant to address drainage and surface water flooding.
This is a requirement of the outline application under condition 14 and was submitted with the application accordingly. This is addressed in further detail within the main assessment below.
- Essex County Council's SUDs Team should be consulted regarding the proposed surge pond and drainage from the development, which appears insufficient due to the change in levels.
The Lead Flood Authority are not required to comment on small scale developments such as this. Drainage is dealt with by Building Regulations.
- Who will be responsible for the maintenance of the ditch?
The ditch is within the applicant's ownership.

5.2 33 letters of representation have been received in response to the original and amended proposal including a petition of 34 signatories and objections from Alpha Road Residents Association. The objections raised can be summarised as follows (officer response in bold text);

- Accesses not as approved.
- Will cause congestion and upset on this narrow, one car width lane.
- Harmful to highway safety and pedestrian safety.
- Poor visibility / blind points.
The access arrangement has been amended and highway safety is covered in the main assessment below.
- Private road maintained by residents.
- Applicant has no right of access to Oakmead Road and Alpha Road.
Land ownership and rights of access are not a material planning consideration.
- Overlooking and loss of privacy
This is addressed in the main assessment below.
- No surface water drainage.
Drainage information has been provided in accordance with condition 14 of the outline consent and is considered acceptable as addressed in the main assessment below.
- Loss of hedgerow and harm to wildlife.
The amended plans now include the retention and enhancement of the existing front boundary hedgerow. The development results in a net gain in biodiversity features as covered by the Ecological Management Scheme.
- Noise, disturbance and congestion from construction traffic and works.
The submission of a Construction Method Statement will be secured by condition.

- No details of refuse collection.
A refuse collection point is included on the proposed plans.
- Design of dwellings out of keeping.
Design and impact is addressed in the main assessment below.

6. Assessment

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Layout, Scale and Appearance;
- Coastal Protection Belt;
- Access and Parking;
- Residential Amenities;
- Surface Water Drainage and Foul Water Drainage;
- Landscaping and Biodiversity;
- Legal Obligations - Recreational Impact Mitigation; and,
- Legal Obligations - Open Space/Play Space Contribution.

Site Context

- 6.2 The application site is situated on the eastern side of Oakmead Road forming part of an open area of lawned land enclosed along the northern and western boundaries by an established hedgerow (removed in part) appearing as part of 262 Point Clear Road. The site is surrounded by existing residential development; to the north-west on Alpha Road, to the west of the site and to the south and east fronting Point Clear Road. To the north and in line with the application site are mobile homes sited at The Orchards Caravan Park.
- 6.3 The site lies to the north of the existing access and driveway leading to 262 Point Clear Road, this and the remainder of the adjoining lawned area fall within the ownership of the applicant and are therefore shown outlined in blue on the submitted plans.
- 6.4 The site is outside the Flood Zone but is within the Coastal Protection Belt.

Proposal

- 6.5 This application seeks full planning permission for the erection of 4 no. detached, 1.5 storey, 3 bed dwellings all of a similar design with a central gable feature to the front and rear (including a balcony to the rear). The dwellings are to have a rendered finish with slate roof tiles. Plots 2 and 4 include some cladding to the front elevation.
- 6.6 The principle of residential development for 5 dwellings has been established through the approval of outline application 16/01611/OUT. The application was originally submitted as a reserved matters application but due to the reduction in the number of dwellings from the 5 approved at outline to the 4 now being proposed, the application must be dealt with as a full planning application.
- 6.7 Outline application 16/01611/OUT was approved by members subject to 15 conditions, including the requirement for the submission of some particulars concurrently with the reserved matters application. These being; an ecological management scheme and mitigation plan (condition 12), a surface water drainage strategy (condition 14) and a foul water drainage strategy (condition 15). Conditions 14 and 15 were added by Members in addition to those

recommended by officers. As the application was originally submitted as a reserved matters application, all the information to accord with the conditions imposed on the outline permission accompanies this application.

- 6.8 Following concerns with the design, forward sited double garages, access arrangements and residential amenities, the application has been amended removing the garages, incorporating a gable feature and variation to the finish of the dwellings, an amendment to the side facing windows and removing the 2 new access points.
- 6.9 The dwellings are to be served by a new drive off the existing access serving 262 Point Clear Road including a turning head. Each property will be served by 2 parking spaces.

Principle of Development

- 6.10 The principle of residential development on this site for 5 no. dwellings is established through the granting of outline planning permission reference 16/01611/OUT. This permission remains extant and a reserved matters application could be submitted for 5 units.
- 6.11 The applicant has chosen to reduce the number of units to 4 to accommodate the desired house type meaning that a full planning application is now required.

Layout, Scale and Appearance

- 6.12 Paragraph 127 of the NPPF states that planning decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.
- 6.13 The layout responds appropriately to the character of the area with the dwellings fronting Oakmead Road in a linear arrangement. The scheme has been revised following discussions with Officers removing the forward sited garages which are uncharacteristic of the area and gave the development a cramped appearance. The dwellings are sited centrally within their individual plots allowing for well-spaced properties with large rear gardens and spacious frontages. The staggered siting of the dwellings adds interest to the street scene view of the development.
- 6.14 The application proposes 4 no. detached, 1.5 storey, 3 bed dwellings. Additional information has been provided showing the mixed scale and residential character of the area demonstrating that the 1.5 storey scale and overall height of the dwellings are not out of character or harmful in their context.
- 6.15 The set back from the highway, spacing around the properties, retention and enhancement of the front boundary hedgerow and proposed perimeter landscaping assimilates the development into the site and its setting, screening and softening the visual impact within Oakmead Road and any wider landscape impact. Condition 13 of the outline permission removes permitted development rights for the erection of fences, walls or enclosures to the perimeter of the site whilst condition 5 requires details of any proposed enclosures to be submitted to and approved by the Local Planning Authority prior to the commencement of development. These conditions will be re-imposed onto this this full planning permission.
- 6.16 Following discussion with officers, amendments were made to the detailed design and finish of the development. The development consists of one house type with a central gable feature to

the front and rear (including a balcony to the rear). The dwellings are to have a rendered finish with slate roof tiles. Plots 2 and 4 include some cladding to the front elevations to add variation to the development and enhance the appearance within the street scene. The design of dwellings combine modern and traditional elements and finishes resulting in an overall acceptable design. Precise materials details are required by condition 4 of the outline consent. This condition will be re-imposed onto this this full planning permission.

- 6.17 The scale, appearance and finish of the properties are considered acceptable in this mixed residential character area. The reduction in the number of dwellings from 5 to 4 units reduces the overall impact of the development.

Coastal Protection Belt

- 6.18 The impact of residential development on the Coastal Protection Belt designation was addressed at the outline stages. It was concluded that the impact will be minimal having regard to the existing settlements also being entirely within this designated area and site abutting existing development.
- 6.19 The development is outside of the flood zone and will not significantly harm the landscape character or quality of the undeveloped coastline.

Access and Parking

- 6.20 Saved 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.
- 6.21 The number of dwellings has been reduced from the outline stage from 5 to 4 units. Access to a development for 5 dwellings has been accepted through the granting of the outline application. The reduction in dwellings reduces the traffic movements originally envisaged and approved on the site.
- 6.22 The application has been amended and the dwellings will now be served by the existing access serving 262 Point Clear Road with a shared driveway extending to the north along the frontage of the new dwellings together with a turning area.
- 6.23 Essex County Council Highway Authority has been consulted on the application (see above for full details). They raise no objection to the proposal and amended vehicular access arrangements subject to conditions. The conditions recommended by the highway authority will be imposed where necessary as this is a full permission and therefore not tied to the conditions imposed in the outline consent.
- 6.24 It is noted that a number of objections have been received with regards to highway safety concerns, however as stated the Highway Authority have not raised any concerns from a highway safety aspect, and Oakmead Road is classified as a 'Private Street' therefore Officers consider a refusal on this issue could not be substantiated. The amended plan removes the formerly proposed 2 new accesses which has overcome many objections raised.
- 6.25 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. 2 spaces are provided for each dwelling in accordance with the above standards.
- 6.26 The development provides sufficient parking and turning for the dwellings and is a reduction in the approved scheme. The shared access can satisfactorily accommodate the traffic movements associated with an additional 4 dwellings without resulting in any material harm to highway safety.

Residential Amenities

- 6.27 The NPPF, in paragraph 127 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 SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) supports these objectives.
- 6.28 The layout plan submitted demonstrates sufficient separation distances are retained between existing nearby dwellings and the proposed dwellings to ensure that existing and future resident's amenity would not be harmed by the development. Plots 3 and 4 are sited opposite the side of number 45 Oakmead Road but are sited over 30 metres from the property and its garden. Furthermore, the front facing first floor windows and roof lights serve bathrooms and bedrooms and not main living areas. The bathroom window will be obscure glazed and the angled position of the roof lights minimise any overlooking. For these reasons, the development cannot be considered to result in any harmful overlooking or material loss of privacy to number 45 Oakmead Road or other nearby properties.
- 6.29 Spacing between the new dwellings and private gardens are in excess of policy standards secure a good level of amenity for future occupants of the development.
- 6.30 The dwellings propose large windows within their side elevations, some of which serve bedrooms. Following concerns with potential privacy issues from views between the dwellings, amended plans have been submitted. The amendments include a reduction in the size of the windows and obscure glazing. This satisfactorily addresses the issue.
- 6.31 The proposed dwellings include first floor balconies set into the rear gable projection. This will allow some overlooking between the new dwellings but these will be minimal due to the screening from the gable overhang. Nevertheless, prospective buyers will be aware of the detailed design of the properties.

Surface Water Drainage and Foul Water Drainage

- 6.32 Essex County Council as the Lead Local Flood Authority (LLFA) require the submission of a surface water drainage strategy for major scale residential developments comprising 10 or more dwellings or a site in excess of 1 hectare. A drainage strategy is not a statutory requirement for this scale of development and the LLFA are not required to assess or comment on the application.
- 6.33 As the application was originally made as a reserved matters application, drainage details have been provided to accord with conditions 14 and 15 of the outline consent that were requested by Members at the meeting on the 29th March 2017.
- 6.34 Surface Water will be directed to the north of the site and connection made into the existing ditch within the applicant's land. The water discharging into the ditch will be attenuated with a swale of an appropriate size for this minor scale development. The discharge is controlled to 1 litre/ sec which is the equivalent to the green field run off rate that would typically discharge into the ditch. The topography of the site means that the water falls naturally towards the ditch reducing any risk of flooding either on the application site or nearby. Officers recommended conditions include the use of permeable surfacing to all new hard surfaced areas.
- 6.35 A foul water connection to the main sewer is available in Oakmead Road and the proposed houses will connect to this via a gravity connection.

6.36 Building regulations will deal with the particulars of the drainage.

Landscaping and Biodiversity

6.37 A Phase 1 Habitat Survey was submitted with the outline application. This found no habitats within the survey area considered to be of high ecological importance on an international, national, regional, county, district or local scale. The habitats on site are of site significance only. The site was not considered suitable for roosting Bats, Reptiles, Water Voles, Otters, Great Crested Newts, Badgers, Hazel Dormice, and plants or invertebrates of significance. A second walkover has been carried out and the report submitted with this application concluding that there is not material change since the original survey.

6.38 The original survey concluded the field boundary hedgerow has the potential to be of value to several protected species as well as being of general biodiversity value themselves.

6.39 The development proposes a significant amount of additional soft planting to the perimeters of the site that are currently open and includes enhancements to the front boundary hedgerow. The species and siting of the planting is acceptable and takes into account the recommendations within the ecology management report. Implementation of the landscaping can be secured by condition.

6.40 The amended scheme ensures the retention of the front boundary hedgerow together with additional planting amounting to an overall biodiversity gain on the site and contributing to the assimilation of the development into its surroundings.

6.41 An Ecological Management Scheme has been submitted to satisfy condition 12 of the outline permission. This includes a time table for implementation detailing the installation of hedgehog friendly fencing, bird boxes and the planting of trees, shrubs and hedgerows prior to the completion of construction and details of how the ecological features are to be managed. Officers are satisfied that the scheme is acceptable and meets the aims of the condition originally imposed on the outline consent.

6.42 A condition relating to external lighting will be added to ensure the aims of condition 11 of the outline consent are carried forward.

Legal Obligations - Recreational Impact Mitigation

6.43 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

6.44 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

6.45 The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zol) being approximately 520 metres from the Essex Estuaries SAC, Colne Estuary SPA and Colne Estuary RAMSAR. New housing development within the Zol would be likely to increase the number of recreational visitors to the Essex Estuary and Colne Estuary and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

6.46 A completed unilateral undertaking has been provided to secure the financial contribution required to mitigate against any recreational impact from the new dwellings and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Legal Obligations – Open Space/Play Space Contribution

6.47 Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built". These sentiments are carried forward within emerging Policy HP5.

6.48 There is currently a deficit of 6.44 hectares of equipped play and formal open space in St Osyth and Point Clear. There are three play areas in St. Osyth and Point Clear. The nearest play area to the proposed development is located at Dumont Avenue and is 0.4 miles away. Due to the limited provision in the village it is felt a contribution towards play and formal open space is justified and relevant to this planning application. This contribution would be spent to enhance the existing Point Clear play area at Dumont Avenue.

6.49 A completed unilateral undertaking has been provided to secure the financial contribution required. This was not a requirement at the time of the outline application and would not be relevant to a reserved matters application.

7. Conclusion

7.1 The principle of residential development on this site has been established and, subject to the inclusion of the conditions contained within the recommendation there is not considered to be any adverse impacts in respect of visual amenity, residential amenities, ecology, drainage or any highway safety. Therefore the application is recommended for approval.

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions, informatives and subject to the completed unilateral undertaking with the agreed Heads of Terms, as set out in the table below;

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per dwelling.
Financial contribution towards open space and play space.	To fund enhancements to the existing Point Clear play area at Dumont Avenue.

8.2 Conditions

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 835/10 D, Drawing 835/11 B, Drawing No. 835/12 A, Drawing No. 835/13 A and Drawing No. 01-19.19.001 - B, Drawing No. 01-19.19.002 - B, Drawing No. 01-19.19.003 – B received 2nd December 2019.

Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping Drawing No. 835/13 A shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the adequate maintenance of the approved landscaping scheme for a period of five years in the interests of the character of the surrounding area.

- 4 No above ground works shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason - The site is publicly visible and therefore quality materials are an essential requirement and insufficient information has been submitted within the application for full consideration of these details.

- 5 The approved screen walls and fences shown on approved Drawing No. 835/13 A shall be erected prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure a satisfactory development of the site in the interests of visual and residential amenity.

- 6 Prior to the occupation of the development, the communal bin/refuse collection point shown on approved Drawing No. 835/10 D shall be provided and thereafter retained in the approved form.

Reason - To minimise the time spent by refuse collection vehicles parked within the highway so as to avoid congestion and inconvenience to users of the highway.

- 7 The removal of any vegetation shall only be carried out outside of the bird nesting season (March to August inclusive).

Reason - To ensure the protection of birds potentially nesting on site.

- 8 All new hardstanding and parking areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the site.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

- 9 The approved Construction Method Statement reference 835 Method Statement 11/19 received on 2nd December 2019 shall be adhered to throughout the construction period.

Reason - To ensure that on-street parking of construction and delivery vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 10 The development shall be carried out in strict accordance with Recommendation and Conclusions of Geosphere Environmental Ltd (2016) Preliminary Ecological Appraisal report ref. 2198,EC/PEA/LS,KL/11-01-16/V1 Dated 11th January 2017, amended Ecological Management Scheme 3651,EC/LTR001/LT,RF,KL/06-11-19/V3 Dated 6th November 2019 and Ecological Management Scheme Drawing ref. 3651,EC/001/Rev 2 Dated 5th November 2019.

Reason - To preserve and enhance the biodiversity of the site.

- 11 No means of external lighting shall be installed until details of an illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason - In the interests of biodiversity and prevent the undesirable, disruptive and disturbing effects of light pollution.

- 12 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), other than those shown on approved Drawing No. 835/13 A, no provision of fences, walls or other enclosures, shall be erected on the perimeter of the site or forward of the dwellings hereby approved except in accordance with drawings showing the design and siting of such enclosures which shall previously have been submitted to and approved, in writing, by the Local Planning Authority by way of a planning application.

Reason - In the interests of visual amenity and to preserve the semi-rural character of the surrounding area.

- 13 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions or alterations to any of the dwellings or their roofs, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions and/or building(s) which shall previously have been submitted to and approved, in writing, by the local planning authority.

Reason - It is necessary for the local planning authority to be able to consider and control further development in order to ensure that landscape harm does not result in this edge of settlement location and to ensure that no harm to neighbouring amenities will occur.

- 14 Prior to the occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 17 metres in both directions as measured from and along the nearside edge of the carriageway in accordance with approved Drawing No. 835/10 D. Such vehicular visibility splays shall be retained free of any obstruction at all times in perpetuity.

Reason - To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

- 15 Prior to first occupation of the development the vehicular turning facility shown on the approved Drawing No. 835/10 D shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason - To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

- 16 Prior to the first occupation of the development, the existing access gates shall be repositioned in accordance with approved Drawing No. 835/10 D retaining a minimum set back from the back edge of the footway of 6 metres and shall be inward opening only. The gates shall be retained in this approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway.

- 17 Prior to first occupation of the development, the vehicle parking shown on approved Drawing no. 835/10 D shall be constructed, surfaced and made available in accordance with the EPOA Parking Standards and maintained free from obstruction within the site at all times for that sole purpose.

Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided for each dwelling.

- 18 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason - To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Agent, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Legal Agreement Informative - Open Space/Play Space Contribution

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Highways Informatives

Informative 1: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

Informative 2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 3: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org or by post to:

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

Informative 4: Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway to ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

None.

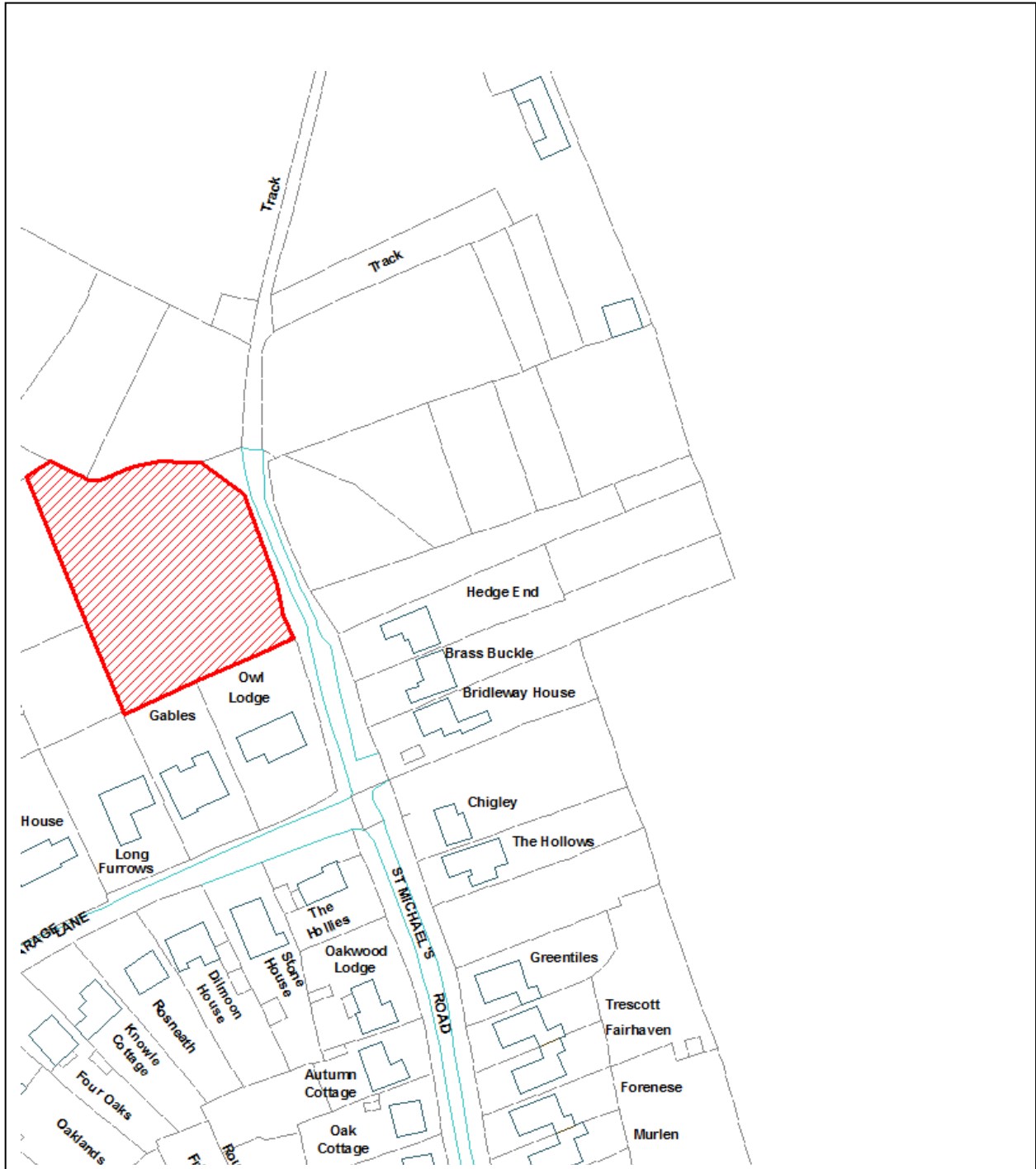
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PLANNING COMMITTEE

17 DECEMBER 2019

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATION – 19/01527/FUL – OWL LODGE VICARAGE LANE THORPE LE SOKEN CO16 0EH



DO NOT SCALE

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Application: 19/01527/FUL

Town / Parish: Thorpe Le Soken Parish Council

Applicant: Mrs Christine Hickford

Address: Owl Lodge Vicarage Lane Thorpe Le Soken Clacton On Sea Essex CO16 0EH

Development: Proposed erection of three detached 3 bed bungalows.

1. **Executive Summary**

- 1.1 This application is before the Planning Committee as it was called in by Councillor Land on the grounds that the proposal will negatively impact the street scene, result in a detrimental highways impact, and will be harmful to neighbours. In a separate objection letter, concerns have also been raised with regards to a covenant on the site ensuring it cannot be developed.
- 1.2 The application site falls outside of a recognised settlement development boundary within both the Adopted and Emerging Local Plans. However, given the Council is unable to demonstrate a five year supply of housing, the proposal has been assessed against the economic, social and environmental strands of sustainability.
- 1.3 The application is considered to provide economic benefits, and is also considered to be within a socially sustainable location in walking distance to the Thorpe-le-Soken High Street, which offers a number of facilities such as retail units and restaurants, and is connected via footpaths and street lighting.
- 1.4 Following a recent appeal decision, there is now a precedent set for development beyond the existing settlement in this location, and therefore, on balance, the erection of three dwellings will not significantly harm the character and appearance of the area, or result in a prominent intrusion into the open countryside, and therefore also meets the environmental strand of sustainability.
- 1.5 The development will not result in harm to neighbouring amenities, harm to any trees, and Essex Highways Authority have raised no objections subject to conditions. A legal agreement has been completed to secure contributions towards Open Space and RAMS.

Recommendation:

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

- a) Subject to the conditions stated in section 8.2

2. **Planning Policy**

The following Local and National Planning Policies are relevant to this planning application.

NPPF National Planning Policy Framework February 2019
National Planning Practice Guidance

Tendring District Local Plan 2007:

- COM6 Provision of Recreational Open Space for New Residential Development
- EN1 Landscape Character
- EN6 Biodiversity
- EN11A Protection of International Sites European Sites and RAMSAR Sites
- HG1 Housing Provision
- HG9 Private Amenity Space
- HG14 Side Isolation
- QL1 Spatial Strategy
- QL9 Design of New Development
- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts and Compatibility of Uses
- TR1A Development Affecting Highways
- TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017):

- CP1 Sustainable Transport and Accessibility
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- SP1 Presumption in Favour of Sustainable Development
- SPL1 Managing Growth
- SPL3 Sustainable Design

Local Planning Guidance:

Essex County Council Car Parking Standards – Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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 48 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. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph

48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF 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 an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

3. **Relevant Planning History**

N/A

4. **Consultations**

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority.

In this location St Michaels Road is classed as a Private Street; i.e. a highway rights exists over the surface. This route is known as Public Footpath 5, (Thorpe le Soken) and as such the legal highway users are pedestrians with usual accompaniment. All other traffic uses this route as a private right of access. The original application 16/01386/OUT was allowed on appeal. The proposal is at the end of a private street and retains adequate room and provision for off street parking and turning, for the proposed dwellings therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access and for each vehicular

access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

2. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

3. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

4. Prior to occupation of the dwelling with the single vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (equivalent of 5 low kerbs), shall be retained at that width for 6 metres within the site.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

5. Prior to the occupation of the dwellings with the shared access, the proposed shared private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

6. The public's rights and ease of passage over public footpath no. 5 (Thorpe le Soken) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in

accordance with Policies DM1 and DM11.

7. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

8. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

9. All double garages should have a minimum internal measurement of 7m x 5.5m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

10. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

11. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the carriageway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the carriageway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: Steps should be taken to ensure that the Developer provides enough turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site. No vehicles

associated with the development shall affect the ease of passage along the PROW.

Informative 2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

5. Representations

- 5.1 Thorpe-le-Soken Parish Council have not commented on the application.
- 5.2 There have been seven letters of objection received, with a summary of their concerns raised below:
- Development is an urban expansion into the open countryside;
 - There are covenants in place on this land to restrict such development;
 - Impacts to local infrastructure;
 - Loss of views;
 - Small access into site would be difficult for emergency services to reach;
 - Wider highway safety implications;
 - Depreciate value of existing dwellings;
 - Site is outside of a settlement boundary;
 - Will set a precedent for similar forms of development; and
 - The proposal is a form of backland development.

6. Assessment

Site Description

- 6.1 The application site is land located to the north of two residential dwellings known as 'Gables' and 'Owl Lodge', which is sited to the northern corner of St Michael's Road within the parish of Thorpe-le-Soken. The site is currently laid to grass, but is reasonably populated with small trees and shrubs. The surrounding area is characterised as semi-rural, with urban built form predominantly to the south, while two dwellings have recently been granted planning permission to the east. To the north the character becomes more rural, with large areas of grassed and agricultural land.
- 6.2 The site falls adjacent to, but outside of, the Settlement Development Boundary for Thorpe-le-Soken within both the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Description of Proposal

- 6.3 This application seeks full planning permission for the erection of three detached bungalows, each to be served by three bedrooms.

Principle of Development

- 6.4 The application site lies outside of a Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.5 Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined

within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

- 6.6 The National Planning Policy Framework 2019 (NPPF) 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 an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 6.7 At the time of this report, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.
- 6.8 Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.
- 6.9 Therefore, at this present time, it is correct to assess the housing development on its merits against the sustainable development objectives set out within Paragraph 8 of the NPPF. The economic objective, a social objective and an environmental objective are therefore assessed below.

Economic:

- 6.10 It is considered that the proposal for three dwellings would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants using the nearby facilities, and so meets the economic arm of sustainable development.

Social:

- 6.11 Socially, it is necessary to consider the proximity to services and facilities, such as healthcare, schools, convenience shopping and jobs and whether these would be accessed by sustainable modes of transport. Within the Council's 'Established Settlement Hierarchy' (2016) Thorpe-le-Soken performs well, with a primary school, GP Surgery, defined village centre and a good bus route. The site itself is approximately 350 metres from the Thorpe-le-Soken High Street, which offers a number of facilities such as retail units and restaurants, and is connected via footpaths and street lighting. Given all of the above the site is considered to meet the social strand of sustainability.

Environmental:

- 6.12 The environmental role is about contributing to protecting and enhancing the natural built and historic environment which is considered below under Impact on Surrounding Area.

Impact on Surrounding Area:

- 6.13 The application site is sited to the rear of two properties known as 'Owl Lodge' and 'Gables', however does not represent a form of backland development given that it is accessed via an existing highway.
- 6.14 The existing development to the south of the site is well defined, and the proposal would be sited beyond this. Ordinarily it could be argued that this development, in going beyond this existing building line, would be harmful to the character and appearance of the surrounding area. However, it must also be acknowledged that under planning appeal decision APP/P1560/W/17/3168892 (Land known as the Brambles, St Michaels Road, Thorpe-le-Soken, dated 18 July 2017), the Planning Inspectorate allowed two dwellings to be approved adjacent to the east of the site. Within this decision, the Inspector stated "*The erection of the proposed dwellings and associated access and boundary enclosures would extend built development further north. However, it would appear as continuation of the existing linear pattern of settlement along St Michael's Road and would be fairly effectively enclosed by established planting*" . . . "*Consequently, whilst the proposal would, inevitably, bring about a localised change to the character of the site, I consider that its effect on the wider landscape would be negligible.*"
- 6.15 While it is acknowledged that the two sites differ and that the proposed development may not appear as a continuation of the existing development in the same manner as the site previously granted permission was, this decision is a material consideration in that the Inspector was satisfied with the change in the character of the area from two new dwellings. There is now a precedent set for development beyond the existing settlement, and therefore, on balance, the erection of three dwellings in this location will not significantly harm the character and appearance of the area, or result in a prominent intrusion into the open countryside. The environmental strand of sustainability has therefore been met.

Design, Layout and Appearance

- 6.16 The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.17 The development will include a total of three dwellings, all of which will be detached and single storey. The proposed layout shows the dwellings to be arranged in a linear fashion running south to north of the site, with two separate access points. There are no objections to this layout. The proposed scheme will see three separately designed dwellings, all of which include key features to help soften their appearance, including front gables and window details. Given this, and that the use of red brick and render are acceptable materials, there are no objections to the design proposed.
- 6.18 Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The plans show that the private amenity areas for all plots far exceed these requirements, while the existing dwellings 'Gables' and 'Owl Lodge' will also have far in excess of the minimum standards.

Impact to Residential Amenities

- 6.19 Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.20 The private accesses would be located to the eastern section of the site, off St Michael's Road. There are no existing properties either side of the access points, ensuring no harm in respect of noise and disturbance through comings and goings associated with the development. To the east of the site two dwellings have recently been granted planning permission, with one currently under construction. There is significant separation distances between the site and these dwellings, and therefore there will be a neutral impact to their amenities.
- 6.21 With regards to the amenities of the neighbouring properties to the south, while the dwellings will be visible, there is an approximate 15 metres separation distance. Given this separation distance and that the dwellings are all single storey, there is not considered to be harm with respect to overlooking, loss of light or the development appearing imposing.

Highway Safety

- 6.22 Essex County Council as the Highway Authority has been consulted on the application and has stated that they have no objections subject to conditions relating to visibility splays, vehicular turning facilities, the use of no unbound materials, the width of the access, the public footpath, and that any boundary planting must be set back a minimum of 1 metre from the highway. A further condition relating to cycle storage provision was requested, however given there is sufficient space within all three plots for this, it is not recommended to include this condition on this occasion.
- 6.23 Furthermore, 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 garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. While the submitted plans show each plot to have garages that do not meet these requirements, there is provision in front of the garages to accommodate the two required parking spaces.

Tree and Landscape Impacts

- 6.24 The main body of the application site currently forms part of the residential curtilage of the host property and is set to grass. The garden is reasonably well populated with small trees and shrubs with the most important tree being a mature Oak on the northern boundary and two other Oaks on the eastern boundary.
- 6.25 The Proposed Site Layout Plan shows that all three Oaks are to be retained. There appears to be sufficient separation between the trees and the proposed dwelling to enable the development to take place without causing harm to them.
- 6.26 The boundary of the application site with St Michael's Road is currently demarcated by an established and attractive garden hedge comprising of a selection of decorative shrub species. The loss of the hedge will adversely affect the appearance of the area but the harm caused by its removal can be mitigated by new planting.
- 6.27 In order to show how retained trees will be physically protected for the duration of the construction phase of any development the applicant will need to provide details of the extent

of the Root Protection Areas (RPA's) of the trees. They will also need to show how the RPA's will be physically protected for the duration of the construction phase of any development. Accordingly these, as well as soft landscaping details, are recommended as conditions should the Planning Committee recommend approval.

Legal Obligations

- 6.28 Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".
- 6.29 There is currently a deficit of 2.43 hectares of play and formal open space in Thorpe-le-Soken. The Parish have recently developed another area of open space known as Lockyer Wood. They have included some play provision but this is an ongoing project to reduce the deficit of play facilities in Thorpe. Due to the significant lack of provision in the area it is felt that a contribution is both justified and relevant to the planning application and that this money would be used towards providing additional facilities at Lockyers Wood.
- 6.30 A unilateral undertaking has been completed to secure this legal obligation and to ensure compliance with saved policy COM6.

Habitats Regulation Assessment

- 6.31 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation); within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.
- 6.32 Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on the Hamford Water Ramsar and SPA. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of the Hamford Water Ramsar and SPA in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Other Considerations

- 6.33 A number of representations have been received stating that there is a covenant on the application site that restricts such a development. This is not a material planning consideration, and should the Planning Committee grant planning permission, this would therefore need to be addressed separately.

7. Conclusion

- 7.1 In conclusion, while the site falls outside of a recognised Settlement Development Boundary the Council is unable to demonstrate a five year housing supply and must therefore assess the application on its own merits. The proposal would represent an economic and social form of

sustainable development, and following an earlier appeal decision on a site adjacent it is considered there would also not be environmental harm. The development will not result in harm to neighbouring amenities, while Essex Highways Authority have raised no objections. Therefore the application is recommended for approval.

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

8.2 Conditions and Reasons

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following approved plans, drawing numbers, 001, 002, 003, 004, 005, 006, 007, 008, 009, 010, 012, and the document titled 'Construction Method Statement'.

Reason - For the avoidance of doubt and in the interests of proper planning.

3 Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access and for each vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

4 Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

5 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

6 Prior to occupation of the dwelling with the single vehicular access (Plot 1) it shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (equivalent of 5 low kerbs), and shall be retained at that width for 6 metres within the site.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

- 7 Prior to the occupation of the dwellings with the shared access, the proposed shared private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

- 8 The public's rights and ease of passage over public footpath no. 5 (Thorpe le Soken) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way.

- 9 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

- 10 Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

Reason - To enhance the visual impact of the proposed works.

- 11 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason -To enhance the visual impact of the proposed works.

- 12 Prior to occupation of the proposed development, details of the steps that will be taken to physically protect retained trees shall be submitted to and approved by the Local Planning Authority.

Reason - To ensure the protection of the retained trees on site.

8.3 Informatives

Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative - Open Space/Play Space Contribution:

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Legal Agreement Informative - Recreational Impact Mitigation:

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Highways Informatives:

Steps should be taken to ensure that the Developer provides enough turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site. No vehicles associated with the development shall affect the ease of passage along the PROW.

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
 - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
 - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

None

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