



PLANNING COMMITTEE

DATE: Tuesday 14 January 2020
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 Katie Sullivan or Ian Ford on 01255686585 or 01255686584.

DATE OF PUBLICATION: MONDAY 6 JANUARY 2020

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 - 8)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on 17 December 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 - 19/01269/DETAIL - 171 Thorpe Road and Land to rear of 121-183 Thorpe Road and 4-20 Chapel Lane, Kirby Cross, CO13 0NH (Pages 9 - 42)**

Demolition of two dwellings and reserved matters application for 110 no. residential units following outline planning permission 15/01710/OUT.

6 **A.2 - Planning Application - 18/01884/FUL - Land to the West of Church Road, Elmstead, CO7 7AR (Pages 43 - 74)**

Erection of 41 no. residential dwellings, open space, allotments, parking, access and landscaping.

7 **A.3 - Planning Application - 19/00283/FUL - Land east of Halstead Road, Kirby Cross, CO13 0LR (Pages 75 - 108)**

Development of 13 dwellings with Associated Landscaping and Infrastructure.

MEETING OVERRUN DATE

In the event that all business is not concluded, the meeting will reconvene on **Wednesday 15 January 2020 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 Wednesday, 12 February 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, 17TH DECEMBER, 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, McWilliams and Placey
Also Present:	Councillors Land and Scott (except items 72 – 74)
In Attendance:	Lisa Hastings (Head of Governance and Legal Services & Monitoring Officer), Ian Ford (Committee Services Manager & Deputy Monitoring Officer), Graham Nourse (Planning Manager), Alison Newland (Planning Team Leader) and Michael Pingram (Planning Officer)

67. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence or substitutions on this occasion.

68. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on Tuesday 19 November 2019, were approved as a correct record and were then signed by the Chairman.

69. DECLARATIONS OF INTEREST

Councillor Scott, who was present in the public gallery, declared for the public record that he was one of the local Ward Members for planning application 19/00791/DETAIL.

Councillor Land, who was present in the public gallery, declared for the public record that he was the local Ward Member for planning application 19/01527/FUL.

70. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were no questions on notice on this occasion.

71. A.1 - PLANNING APPLICATION - 19-00791-DETAIL - LAND EAST OF SCHOOL ROAD, ELMSTEAD, CO7 7ET

It was reported that this application had been referred to the Planning Committee at the request of Councillor Scott, a local ward member due to his concerns about the negative impact on urban design/street scene, highways impact and other traffic issues.

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 Planning Team Leader (AN) in respect of the application.

An update sheet was circulated to the Committee prior to the meeting with details of corrections and updates to paragraphs 6.3 and 6.4 of the Officer report.

Councillor Scott, a local Ward Member, spoke on the application.

Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Bray and **RESOLVED** that the Head of Planning (or equivalent authorised officer) 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) the following conditions and informatives:-

Conditions

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 play space 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 play space 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.

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

- (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 Section 106 planning obligation.

It was then moved by Councillor Bray, seconded by Councillor Alexander and:-

RESOLVED that the Planning Policy and Local Plan Committee be requested to give consideration to the introduction of a planning policy for the District that will require future new builds to have, as a standard installation, charging points for electric vehicles or other similar environmental measures.

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

It was reported that this application had been deferred by the Chairman of the Committee (Councillor White) prior to the commencement of the meeting following the Chairman's Briefing. This was due to the fact that consultation comments on the application were still awaited from Essex County Council's Sustainable Drainage Systems section.

73. **A.3 - PLANNING APPLICATION - 19/00610/FUL - LAND AT OAKMEAD ROAD, ST OSYTH, CO16 8NW**

It was reported that this application had been deferred by the Chairman of the Committee (Councillor White) prior to the commencement of the meeting following the Chairman's Briefing. This was following concerns raised by the Planning Manager that some of the amended plans submitted by the applicant were incorrect and that St Osyth Parish Council had not been consulted on the amended plans.

74. **A.4 - PLANNING APPLICATION - 19/01527/FUL - OWL LODGE, VICARAGE LANE, THORPE-LE-SOKEN, CO16 0EH**

It was reported that this application was before the Planning Committee as it had been called in by Councillor Land on the grounds that the proposal would negatively impact the street scene, result in a detrimental highways impact, and would be harmful to neighbours' amenity.

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 Planning Officer (MP) in respect of the application.

Bill Marshall, a member of the public, spoke in favour of the application.

Kevin Marsden, a member of the public, spoke against the application.

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

Oliver Burfoot the agent acting on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor Cawthron and unanimously **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:-

1. The site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). 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.

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.

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.

Whilst it is recognised that there would be conflict with Saved Policy QL1 (as recognised by the Inspector) 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. Development should be plan led unless material considerations indicate otherwise. However, in line with Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective.

Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. 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.

The application site is located behind the strong existing frontage running east to west along Vicarage Lane. Consequently the proposal would result in a localised change to the immediate surrounding area, appearing out of character and resulting in a negative and harmful visual impact. The proposal would therefore fail the environmental dimension of sustainable development, while the small public benefits of three dwellings at a time when the Council is unable to demonstrate a five year housing land supply does not outweigh this identified harm.

2. Paragraph 109 of the National Planning Policy Framework (2019) states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy TR1a of the Adopted Local Plan 2007 states proposals for development affecting highways will be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic and to the effects on the transport system including the physical and environmental capacity to accommodate the traffic generated.

The proposed development, combined with that previously approved to the east under planning reference 16/01386/OUT, will cumulatively result in significant harmful impacts upon the local highway network, in particular the bridleway running north to south along St Michael's Road. The intensification to this highway would cause danger, obstruction and congestion, contrary to the interests of highway safety.

The meeting was declared closed at 7.45 pm

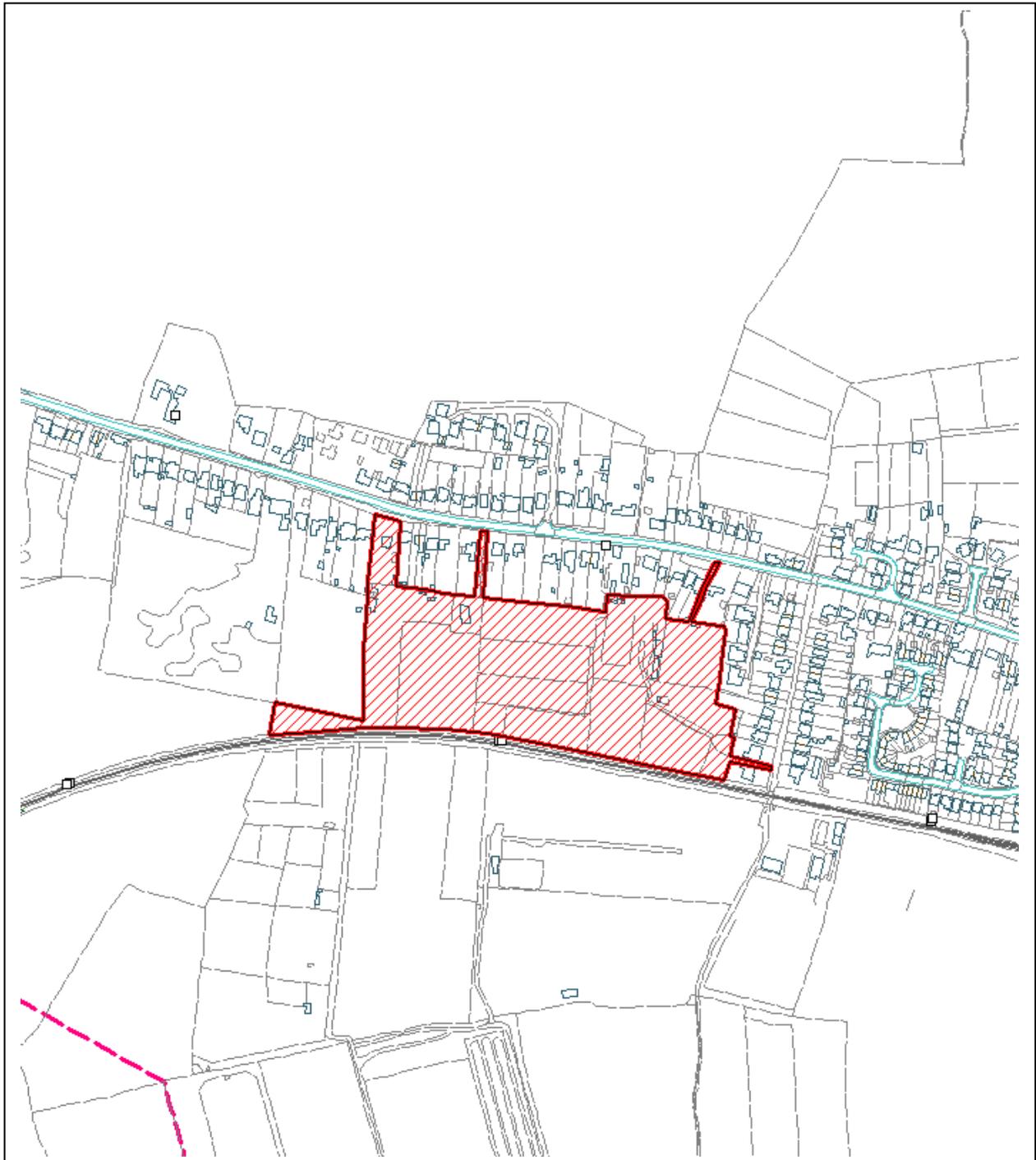
Chairman

PLANNING COMMITTEE

14 January 2020

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION – 19/01269/DETAIL – 171 THORPE ROAD AND LAND TO REAR OF 121-183 THORPE ROAD AND 4-20 CHAPEL LANE KIRBY CROSS FRINTON ON SEA CO13 0NH



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Application: 19/01269/DETAIL

Town / Parish: Frinton & Walton Town Council

Applicant: Mr David Burns - Taylor Wimpey East London

Address: 171 Thorpe Road and Land to rear of 121-183 Thorpe Road and 4-20 Chapel Lane Kirby Cross Frinton On Sea Essex CO13 0NH

Development: Demolition of two dwellings and reserved matters application for 110 no. residential units following outline planning permission 15/01710/OUT

1. Executive Summary

- 1.1 This reserved matters application is referred to Planning Committee at the request of Members when determining the outline planning application. The development also represents a departure from the adopted Development Plan, being located outside the settlement development boundary in the Tendring District Local Plan 2007.
- 1.2 The Council refused a planning application (15/01710/OUT) that sought outline planning permission for the demolition of one dwelling and outline planning permission for the erection of up to 110 no. residential units, with all matters reserved except for access. Members refused the application contrary to the Officer recommendation. The applicant appealed that decision and in September 2016 a Planning Inspector granted the outline permission, subject to a S106 legal agreement and nineteen conditions.
- 1.3 The application site is situated on land that lies between the rear gardens of properties on the southern side of Thorpe Road and the railway line, and to the west of properties fronting onto Chapel Lane, at the western end of the village of Kirby Cross. The site covers an area of 4.8 hectares, the majority of which comprises former horse paddocks, but it also includes the detached bungalow and garden at no.171 Thorpe Road and land that will provide three further pedestrian connections from the main body of the application site to Thorpe Road and Chapel Lane.
- 1.4 The site is flanked to the north and east by the rear gardens of dwellings on Thorpe Road and Chapel Lane; to the south by the railway line; and the west by a wooded area beyond which is farmland.
- 1.5 The submitted application seeks the approval of Reserved Matters for Appearance, Landscaping, Layout, and Scale, pursuant to condition 1 imposed upon the grant of outline planning permission. Approval is now sought for the erection no.110 dwellings, comprising a mix of 2, 3 and 4-bedroom two-storey houses, including no.8 dwellings that are to be gifted to the Council for use as Affordable Housing (in accordance with the S106 secured under the outline permission).
- 1.6 This represents an alternative reserved matters proposal to that approved under 18/01728/DETAIL for 105 dwellings in November 2019 (following completion of the RAMS legal agreement), following approval by Members at Planning Committee on 12th August 2019.
- 1.7 The scheme has been revised following discussions with Planning Officers and is now considered to be acceptable, with a layout that responds positively to site constraints and opportunities, including the presence of numerous trees that are protected by Tree Preservation Orders. At the centre of the development a public green, with small play area,

is proposed and this will help to create a sense of place. The layout is arranged so that the new homes face inwards from the boundaries of the site, so as to reduce the impact on the amenity of the existing residents adjoining the site and to provide an appropriate soft edge to this new village boundary.

- 1.8 Finally, with regard to ecology, the applicant has agreed to suitable mitigation measures for the loss of barn owl and reptile habitats on the site and a package of measures to mitigate against increased recreational pressure arising from these new dwellings on the relevant European sites, in line with the aspirations of the emerging RAMS (Recreational disturbance Avoidance and Mitigation Strategy).

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 of £122.30 per dwelling 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.

National Planning Policy Framework 2019 (NPPF)

- 2.1 The NPPF sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan, it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
- an economic role;
 - a social role; and
 - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs

of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.

- 2.4 Paragraph 38 of the NPPF states “Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.”

National Planning Practice Guidance (PPG)

- 2.5 The PPG provides additional planning guidance from Central Government on a range of issues, including, but not limited to: Air Quality; Climate Change; Design, Flood risk and coastal change; Light Pollution; Natural Environment; Noise; and Travel Plans, Transport Assessments and Statements.

Status of the Local Plan

- 2.6 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.
- 2.7 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.
- 2.8 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.
- 2.9 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.

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

Tendring District Local Plan (Adopted 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

QL12: Planning Obligations

HG1: Housing Provision

HG3: Residential Development Within Defined Settlements

HG3a: Mixed Communities

HG4: Affordable Housing in New Developments

HG6: Dwellings Size and Type

HG7: Residential Densities

COM1: Access For All

COM2: Community Safety

COM6: Provision of Recreational Open Space for New Residential Developments

COM21: Light Pollution

COM22: Noise Pollution

COM23: General Pollution

COM29: Utilities

COM31a: Sewerage and Sewage Disposal

EN1: Landscape Character

EN2: Local Green Gaps

EN4: Protection of the Best and Most Versatile Agricultural Land

EN6: Biodiversity

EN6a: Protected Species

EN6b: Habitat Creation

EN11a: Protection of International Sites: European Sites and Ramsar sites

EN12: Design and Access Statements

EN13: Sustainable Drainage Systems

EN23: Development within the Proximity of a Listed Building

TR1a: Development Affecting Highways

TR1: Transport Assessment

TR3a: Provision for Walking

TR5: Provision for Cycling

TR6: Provision for Public Transport Use

TR7: Vehicle Parking at New Development

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

SP1: Presumption in Favour of Sustainable Development

SP2: Spatial Strategy for North Essex

SP3: Meeting Housing Needs

SP5: Infrastructure and Connectivity

SP6: Place Shaping Principles

SPL1: Managing Growth

SPL2: Settlement Development Boundaries

SPL3: Sustainable Design

HP1: Improving Health and Wellbeing

HP3: Green Infrastructure

HP5: Open Space, Sports and Recreation Facilities

LP1: Housing Supply

LP2: Housing Choice

LP3: Housing Density

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

PPL9: Listed Buildings

CP1: Sustainable Transport and Accessibility

CP2: Improving the Transport Network

CP3: Improving the Telecommunications Network

Other Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

Essex Design Guide (2005)

Urban Place Supplement (2007)

3. Relevant Planning History

15/01710/OUT	Demolition of one dwelling and outline application for up to 110 no. residential units with all matters reserved except for access.	Refused Allowed at appeal	12.04.2016
16/00804/OUT	Demolition of one dwelling and outline application for up to 109 no. residential units with all matters reserved except for access.	Withdrawn	09.11.2016
18/01728/DETAIL	Demolition of one dwelling and reserved matters application for	Approved	21.11.2019

105 no. residential units.

4. Consultations

ECC SuDS	<p>No objection. Initially ECC SuDS issued a holding objection as this application contained no further information on the detailed surface water drainage arrangements for the development.</p> <p>ECC SuDS are now aware that a drainage strategy was agreed as part of the outline permission and that there is a condition attached to the outline permission that requires submission and approval of further drainage details. On the basis that there will be a separate application to discharge this planning condition, which ECC SuDS will assess, they have withdrawn their holding objection.</p>
Housing Services	<p>The applicant is proposing to gift 4 x 2 bed houses and 4 x 3 bed houses to the council. Although this is a different mix than what was agreed with the original applicant, I can confirm that my department is happy with the new proposal as suggested by the applicant. Details of the specification for the gifted units will need to be agreed with the Council's Housing Services Officer.</p>
Anglian Water Services Ltd	<p>Wastewater Treatment - The foul drainage from this development is in the catchment of Walton On The Naze Water Recycling Centre that will have available capacity for these flows</p> <p>Used Water Network - Development may lead to an unacceptable risk of flooding downstream. Anglian Water (AW) will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. AW recommend a planning condition requiring the submission of a foul water strategy outlining the proposed connection point and discharge regime.</p> <p>Surface Water Disposal - The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.</p> <p>From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management.</p>
ECC Highways	<p>The Highway Authority initially requested several amendments to the internal road layout drawing. Following receipt of revised plans, from a highway and transportation perspective the impact of the proposal is now acceptable to Highway Authority subject to the following mitigation and conditions:</p>

1 Prior to the occupation the internal road and footway layout shall be provided in principal and accord with drawing number TW019-PL-02 Rev L

2 Prior to the commencement of 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 LPA.

4. Each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles and each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

5. All single garages should have a minimum internal measurement of 7m x 3m and all double garages should have a minimum internal measurement of 7m x 5.5m

6. The proposed/any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

7. 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.

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.

9. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement 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

10. With the proposed southern footway in front of plots 27 to 31 this needs to run adjacent to the carriageway as for these driveways there is a potential for the footway to be blocked if a third car parks at the very end of the drive.

Historic England

On the basis of the information available to date, we do not wish to offer any comments, but suggest that the views of the Council's specialist conservation and archaeological advisers, as relevant.

Network Rail

No response received to consultation

Natural England

No objection subject to appropriate mitigation being secured. The development site falls within the 'Zone of Influence' (Zol) of one or more of the European designated sites and 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

recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

NE are satisfied that the mitigation described in the Council's Appropriate Assessment is in line with their strategic-level advice and the mitigation should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

Appropriate planning condition or obligation is attached to any planning permission to secure the on-site mitigation measures, including links to footpaths in the surrounding area. The financial contribution should be secured through an appropriate and legally binding agreement.

Essex County
Council Ecology

We have reviewed the updated Barn Owl Ecological Advice Note (SES, Nov 2019) which takes account of a revised construction programme and identifies alternative mitigation & monitoring. It still relates to the likely impacts of development on Barn Owl, a legally Protected species. Surveys undertaken in 2019 indicated evidence of Barn Owl nesting so mitigation is needed to facilitate the consented demolition of building 1 in order to maintain the breeding site locally and conserve the population of Barn Owl.

We have also reviewed the submitted Reptile Mitigation Strategy (SES, Nov 2019) based on updated reptile surveys to ensure the mitigation previously recommended in the Phase 2 Ecological Survey and Assessment report (SES, 2015b) for the application approved at Appeal, is still fit for purpose when secured by a condition of any consent of this application.

We are satisfied that the measures proposed in the updated Barn Owl Ecological Advice Note will, with fencing to restrict access to the on-site replacement nesting box, enable the LPA to demonstrate its compliance with its statutory duties including its duties to protect Schedule 1 bird under the Wildlife & Countryside Act 1981 and to prevent wildlife crime under s17 Crime & Disorder Act 1998. We welcome confirmation that reptiles present on site can still be accommodated on the development site and that measures identified in the Reptile Mitigation Strategy should be secured for implementation in full to avoid any offence.

The mitigation measures and/or works identified in the Updated Barn Owl Ecological Advice Note should be secured and implemented in full. The on-site Barn Owl nest box will still be installed in the approved location (See Appendix 5 of the above report) on completion of all construction likely to disturb it. Two nest boxes will also be provided off site, one on adjacent land (within 500m of the current nesting site and installed within the winter of 2019/20) and one donated to Essex Wildlife Trust to be installed within the wider landscape.

We note that a further survey for Barn Owls using Building 1 to

be demolished must be undertaken prior to commencement of development by a Natural England Barn Owl licence holder to establish the current usage of the site by Barn Owl.

As future monitoring of all three barn owl boxes will need to be undertaken by a suitable qualified licenced barn owl ecologist, we recommend that the LPA secures a commitment from the applicant for a Barn Owl monitoring strategy under a mirror condition to 18/01728/DETAIL, to ensure the monitoring reports are provided to the LPA in line with para 6.12 of the submitted Barn Owl advice note. This will provide certainty for the LPA of the likely impacts on Barn Owl and reptiles, Protected species, and with appropriate mitigation measures secured, the development can be made acceptable. This will enable the LPA to demonstrate its compliance with its statutory duties.

Recommend two conditions as detailed within the recommendation.

Essex Police

Essex Police would like to see this developer incorporate Crime Prevention Through Environmental Design (CPTED) in respect of this development pursuant to the NPPF and the Tendring Local Plan policy PL4 which requires development to '*minimise the opportunities for crime and anti-social behaviour by ensuring good surveillance, clear definition between public and private spaces*'.

The proposed layout shows dwellings well positioned to protect the more vulnerable rear of the properties; the plans state there will be clearly defined boundaries along with good natural surveillance for the residents however no mention has been made of proposed lighting of the site or recreational pathways.

British Transport
Police

No objection subject to a condition requiring an assessment and potential upgrading of the fence that forms the boundary to the railway line immediately adjacent to the site.

5. Representations

5.1 Frinton and Walton Town Council recommend that the application is refused. Their reasons for objecting to the application are:

- Object to the principle of a housing development on this site as it is outside village settlement boundary; the site is in an unsustainable location being distant from shops, education, healthcare and employment; development would erode the green gap; and would constitute backland development.
- Development would be too close to the railway line
- Proposed development is too dense
- Object to the number of two storey properties and lack of parking
- Object to a single vehicular entrance / exit on to the busy Thorpe Road
- Against having properties with no frontage, shared roads and pavements which reduce the distance between properties and adversely affect resident's amenity.

5.2 Letters objecting to the application have been received from 24 local residents. The objections received raise the following points:

Principle of Development

- A 'green gap' will be lost and houses provided with no facilities or amenities
- There are no shops within walking distance so residents will be forced to drive at a time when there is pressure to reduce reliance on private cars, similarly no entertainment and leisure facilities
- There is a lack of industry locally forcing residents to drive out of the district to find work
- Village infrastructure does not have capacity to provide services for more residents – primary and secondary schools are full; lack of play areas for children; not possible to get appointments to see GP and difficult to see dentist and optician; no Accident & Emergency facilities in Clacton; roads are congested and road surfaces are literally falling apart
- The village has already been subject to considerable development and construction work will further inconvenience residents if more development is allowed
- There are lots of properties for sale in the area, with some new developments proving hard to sell, so there is no need for more new housing. No one will want to live on this development which backs on to a railway line
- With climate emergency being declared this is something that will have a further impact on the environment, health and wellbeing of all current residents
- The new houses will not all be affordable for first time buyers

Design & Layout

- The number of dwellings is too high and the density will result in future problems
- Cannot see any Visitor Parking on the plans. With many households having more than two cars access for service vehicles could be restricted
- There is not enough space being provided for all the children that will live in the family housing that is now proposed for the site
- The previous scheme featured single storey dwellings which reduced the impact on existing residents bordering the site
- Very cramped and there is not enough parking for families who are living together longer
- Existing dwellings on Thorpe Road and Chapel Lane are predominantly bungalows so a development of two storey houses is not appropriate
- Three properties are being squeezed in at the entrance to the site. These houses do not respect the building line and they would result in overlooking neighbours bungalows and gardens and block out a lot of our natural light.

Landscape & Ecology

- New dwellings will be built in close proximity to mature oak trees that are in adjoining gardens and may be detrimental to trees health / retention
- Fields have been home to varied wildlife some of which are endangered. Trees and hedgerows along the railway line corridor and the rear of existing properties on Thorpe Road should be retained to retain some of their habitats
- Development will affect muntjac deer, and barn owls which like open fields for hunting. Concerns also raised about tawny owls, bats, voles and garden birds have all been referred to in objection letters
- Trees and hedgerow need protecting to help the birds and wildlife
- Claims that a barn owl has been disturbed despite being a protected species
- Bats fly around this area foraging

Highways

- Thorpe Road is already an extremely busy road and increasing traffic will increase danger

- Inadequate assessment of the impact that this development will have, along with many others, on the highway network, particularly at bottle necks like Thorpe-le-Stoken High Street
- Highway access is unsafe. Speeding along the road is an issue and the location of the access, on a long sweeping bend, means that fast vehicles may not see maneuvering vehicles at the junction.
- Residents on Thorpe Road will be subjected to noise as vehicles brake and accelerate. The occupants at no.176 Thorpe Road would suffer from light pollution from headlights at night
- Increase in traffic due to developments is making it hard to find parking spaces when visiting shops and services
- No bus services serve the development which will force residents to drive their cars
- The highway authority should carry out further surveys of speed and volumes over a number of days and at different times to get a full picture of highway conditions and not rely on one survey from 2016
- One access road to serve 110 dwellings is not enough and another access is required
- Whilst the speed limit passing the entrance is 30 mph vehicles actually pass at 50 to 60 mph and the Councils should undertake their own traffic speed monitoring which will show that the proposed access will not be safe
- Inadequate provision for resident's car parking will result in cars parking inconveniently and unsafely in the carriageway and on adjoining streets
- Pedestrian access from the development to Chapel Lane between no's 20-22 will access onto the private unadopted Chapel Lane. The resulting increase in pedestrian and cyclists will increase the cost of repairs and maintenance which have to be borne by Chapel Lane residents who own the road

Neighbour Amenity

- Concern about the noise that neighbours will be exposed to during the construction period – request that hours of working are restricted to 9-5 weekdays only
- Proposed houses are far too near to current properties adjoining the site resulting in concerns about loss of privacy; light pollution from street lighting; loss of light and noise
- Bungalows on Chapel Lane will be overlooked by four-bedroom houses.
- Only bungalows should be allowed adjacent to existing residential properties – not two storey housing
- New development could increase the risk of flooding to neighbours' properties
- Overshadowing of neighbour's gardens rendering them unsuitable for gardening
- Construction work could cause structural damage to existing properties

Other Matters

- Plans are inaccurate – two new build properties on Chapel Lane are missing from the plan
- Crime in the area is increasing and the police presence is lacking
- Residents want to maintain the village community and don't want more development which will change that
- The access footpath into Chapel Lane should not be allowed as this will make easy access to the railway line, which may encourage children to play on the line.
- The new houses will be built to current minimum eco standards despite massive climate change issues. Missed opportunity to not incorporate solar panels and other Eco features
- No provision for play areas for children

5.3 A further 3 representations were received which made comments on the proposals. A summary of the additional issues raised in these letters is set out below:

- Developers of other properties adjoining the site (no's 121-121c) advised purchasers of those new properties that there would be extra landscaping some 8-metre-wide to screen the development
- Concerns over the lack of an Arboricultural Assessment with the original application and consequent lack of assessment regarding impact on trees protected by Tree Preservation Orders
- Concern that the application does not adequately assess the impact of development on the setting of the Grade II listed property at no.127 Thorpe Road – specifically the extent to which the setting will be altered by properties overlooking the listed building; how the new pedestrian route adjoining the listed building will be enclosed and illuminated; and whether the routing of utility services along the pedestrian route could adversely affect the structural integrity of the listed building
- Unclear what is happening with foul drainage arrangements
- Question whether the pond shown on the plans will be wet or dry and what consequences this might have on the quality and usability of the Public Open Space
- New housing built at no.121 Thorpe Road was restricted to dwellings which only had a single storey and this would indicate that dwellings on this site should also be single storey, particularly where they adjoin the private amenity areas of existing dwellings on Thorpe Road and Chapel Lane

6. Assessment

Site Context

- 6.1 The application site is located in the western part of the settlement of Kirby Cross and consists of 4.8 hectares of relatively flat open land which is to the rear of frontage development along Thorpe Road. To the north the site is bounded by the rear gardens of dwellings on Thorpe Road; to the east by a small area of open land to the rear of properties on Chapel Lane; to the south by the railway line; and to the west of the site is a wooded area beyond which is farmland. The site contains a number of mature trees on and close to site boundaries. Hedgerows within the site also contain some large trees.
- 6.2 The site was previously used for the keeping of horses and had included a number of equestrian related structures - stable buildings, shelters and a ménage. Since outline permission was granted horses are no longer kept at the site and the grassland has become overgrown.
- 6.3 In addition to the paddocks the site also includes 171 Thorpe Road which is a detached bungalow that would be demolished to provide the vehicular access to the site. A further dwelling (No.157) is located within the site. There is an existing drive leading to that property which will be used to provide a further pedestrian access to the site from Thorpe Road. Further pedestrian links will be provided from Thorpe Road, between 127 &129 Thorpe Road, and an access from Chapel Lane.

Planning History

- 6.4 In November 2015 an application was made that sought outline planning permission for the demolition of one dwelling and outline planning permission for the erection of up to 110 no. residential units with all matters reserved except for access (15/01710/OUT). Officers reported the application to Planning Committee in March 2016 and recommended approval of the application. The Committee refused the application as it was considered that the development would be contrary to the 'Local Green Gap' policy; be out of character with the character of Kirby Cross and be harmful to the intrinsic character and beauty of the countryside. The applicant successfully appealed that decision and in September 2016 a

Planning Inspector granted Outline Planning Permission, subject to a S106 legal agreement and nineteen planning conditions.

- 6.5 Thirteen of the planning conditions imposed by the Planning Inspector require the submission and approval of details prior to the commencement of development - Conditions 4 (Phasing Plan), 5 (External Materials), 7 (Tree Protection), 8 (Boundary Walls and Fences) Means of Enclosure), 9 (Surface Water Drainage ('SuDS') System), 10 (SuDS during construction), 11 (SuDS Management), 13 (Cycle Storage), 14 (Ecological Mitigation Statement), 15 (Construction Method Statement), 16 (Noise Mitigation), 17 (Refuse / Recycling), 18 (External Lighting). The applicant will need to submit discharge of conditions application(s) to the Council and gain approval for all these matters prior to the commencement of development. The remaining six planning conditions establish the scope of the planning permission, or are compliance conditions.
- 6.6 The Council's Planning Committee, at their meeting on 12th August 2019, passed a resolution to grant approval of a previously submitted application which sought approval of the Reserved Matters for this development for 105 dwellings. Following completion of the legal agreement to secure the required financial contribution towards RAMS, the decision notice approving the details of the Reserved Matters for application 18/01728/DETAIL was issued on 21st November 2019.

Proposal

- 6.7 This is a new application which again seeks the approval of Reserved Matters for Appearance, Landscaping, Layout, and Scale, pursuant to condition 1 imposed upon the grant of outline planning permission 15/01710/OUT. This application is submitted by a different developer and this application seeks approval for details of Appearance, Landscaping, Layout and Scale that are different to the scheme approved in November 2019. This application seeks approval for a development of 110 dwellings on the site – the maximum number permissible under the Outline Planning Permission.
- 6.8 The description of the outline aspect of the proposed development for 15/01710/OUT, as approved by the Planning Inspector, proposed the demolition of one dwelling and erection of up to 110 no. residential units. The means of accessing the site was approved as part of the Outline planning application. The approved vehicular access to the site will be a new priority junction formed off Thorpe Road, on the site of the bungalow that is to be demolished at no.171 Thorpe Road. The access road shall comprise a 5.5-metre-wide carriageway with 2-metre-wide footways to either side. Three pedestrian accesses were also approved, two onto Thorpe Road and one onto Chapel Lane.
- 6.9 Following discussions between the applicant and Officers, revisions have been made to the application as originally submitted, and include amended drawings as well as additional or revised documents. The application submission comprises:
- Planning application form;
 - Location Plan;
 - Block Plan;
 - Concept Development Plan;
 - Garden Plan;
 - Refuse Collection Plan;
 - Building Heights Plan;
 - Boundary Treatments Plan;
 - Affordable Housing Location Plan;
 - Elevations and Floor Plans for each house type; and garage;
 - Pumping Station and Sub Station Plans;
 - Street Scenes;

- Materials Plan;
- Design & Access Statement;
- Soft Landscape Plans;
- Circular Dog Walking Plan;
- Arboricultural Impact Assessment and Monitoring Reports;
- Root Investigation Report;
- Preliminary Arboricultural Method Statement and Tree Protection Plan;
- Barn Owl Ecological Advice Note;
- Reptile Mitigation Strategy; and
- Heritage Statement.

6.10 Following discussions with the applicant the proposed development has been amended. The principle revisions to the original submission are summarised thus:

- Moving Plot one forward in line with existing development along Thorpe Road, and a new plot 2 added behind;
- Relocating the building line on the eastern boundary to move the new dwellings further away from the boundary with properties on Chapel Lane;
- Changes to the alignment of one of the pedestrian links from the site to Thorpe Road to improve the relationship to a proposed dwelling;
- Elevational changes to some house types, to improve their detailing and appearance;
- Changes to the central block to improve their amenity areas and to better address the streetscene; and
- Improvements to the equipped play area (LAP) proposed for the Central Green.
- Amendments to the road types to conform with the Highway Authority's standards for adoption, including ensuring suitable visibility splays on corner plots and inclusion of additional traffic calming; revisions to the extent of the footways; changes to the car parking arrangements to comply with the Parking Standards;
- The applicant has also submitted an alternative Barn Owl Ecological Advice Note and a Reptile Mitigation Strategy;
- Minor revisions to the mix of housing. The mix of housing now proposed is:

Market Housing – 102 Units

12 x 2-bed houses
 51 x 3-bed houses
 39 x 4-bed houses

Affordable Housing – 8 Units

4 x 2-bed houses
 4 x 3-bed houses

6.11 In totality, the proposal comprises: Vehicle access to the residential development from a new priority junction on Thorpe Road on the site of the bungalow at no.171 Thorpe Road which will be demolished leading to a 5.5m wide road, Formation of two pedestrian links from the site to Thorpe Road (via the access to no.157 Thorpe Road – which is to be demolished – and between 127 & 129 Thorpe Road) and one further pedestrian link to Chapel Lane (between 22 & 24 Chapel Lane); Construction of no.110 dwellings, including no.8 affordable housing units; The provision of public open spaces, including an equipped children's play area; Formation of SUDs, including the construction of an attenuation basin as part of the Central Green; Landscaping and ecological mitigation; and associated parking and access.

Principle of Development

6.12 As noted above, within the Planning History section of the report, the principle of development of this site has already been established. Whilst the Council refused the

original application in 2016 for Outline Planning Permission to develop up to 110 dwellings the applicant appealed that decision to the Secretary of State and in August 2016 a Planning Inspector granted Outline Planning Permission, subject to conditions including the approval of the Reserved Matters. An alternative reserved matters application (18/01728/DETAIL) for 105 dwellings has also been approved in November 2019.

- 6.13 The Council has received a significant number of objections to this application for approval of the Reserved Matters, however many of the objections do not refer to the Reserved Matters (the Appearance, Landscaping, Layout and Scale of the development) and instead refer to the principle of development – matters such as the suitability of the site for housing development; the need for more housing within the village / district; concerns about the access arrangements and highway safety and capacity; and concerns over infrastructure capacity. As all these matters relate to the principle of development or the access which have both been established by the Planning Inspectors decision none can be considered as part of the determination of this application.
- 6.14 The main planning considerations for this reserved matters application are:
- Access and Highways;
 - Design (Layout, Scale and Appearance);
 - Impact on Heritage Assets
 - Living Conditions;
 - Landscaping;
 - Ecology; and,
 - Section 106 legal agreement.

Access and Highways

- 6.15 Where concerning the promotion of sustainable transport, the NPPF in para. 103 states that the planning system should actively manage patterns of growth; and that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport.
- 6.16 Objectors question whether the site is in a sustainable location but the Planning Inspector stated that ‘... the site is in a sustainable location given that there are footpaths and public transport connections and given that there are local shops and a primary school within walking distance’.
- 6.17 As well as establishing the principle of residential development of the site, access was also approved as part of the outline planning permission. A number of objectors have referred to the highway access arrangements to the site, claiming that this will be unsafe and that traffic speeds on Thorpe Road will make the access unsafe. The Highway Authority were satisfied with the access arrangements and raised no objection to the outline planning application. The access arrangements and highway capacity were considered by the Planning Inspector. Having reviewed the applicants Transport Statement and the Highway Authority recommendation the Inspector concluded that, subject to planning conditions, the development would be acceptable in terms of highway safety and granted the outline planning permission with access approved. As a result, the vehicular access to the site and highway capacity are not matters that the Council can consider as part of this Reserved Matters application.
- 6.18 The applicant also proposed to provide three additional footway links from the site to surrounding roads – two separate links onto Thorpe Road and a further link to the east, to

connect to Chapel Lane – which will encourage residents to walk and cycle for short journeys.

- 6.19 To further encourage residents to use more sustainable means of transport, condition no.12 of the outline planning permission requires the upgrading of the two bus stops on Thorpe Road, west of its junction with Chapel and the provision of a Residential Travel Information Pack for sustainable transport, to the first occupier of each new dwelling.
- 6.20 The Highway Authority have been consulted on this reserved matters application and having reviewed the proposals they requested several amendments to the internal road layout drawing. Following receipt of revised plans the Highway Authority have now confirmed that from a highway and transportation perspective the impact of the proposal is now acceptable subject to a series of conditions covering the design and construction of internal roads and footways; the design and provision of vehicle and cycle parking spaces; and that there be no new planting within 1 metre of the highway or visibility splays. Further conditions are recommended requiring the provision of Residential Travel Information Packs to the first occupants of the new dwellings and a Construction Method Statement which will cover access arrangements for construction traffic but these matters are already covered by conditions that formed part of the Outline Planning Permission and so do not need to be replicated on this decision.
- 6.21 Consequently, from a highway and transportation perspective the impact of the proposal is deemed acceptable to the Highway Authority subject to the imposition of conditions as highlighted within the summary of their consultation response above.
- 6.22 Adopted Local Plan Policy TR7 states that in new residential development there will be a requirement that the parking is provided in accordance with the Councils Parking Standards. The parking standards state that a minimum of 2 spaces per dwelling should be provided for 2 and more bedroom dwellings. Also 0.25 space per dwelling is required for visitor parking. Parking spaces should measure 5.5 metres by 2.9 metres and garages, where to be counted towards parking provision should measure 7 metres by 3 metres.
- 6.23 Whilst a number of objectors have claimed there is insufficient car parking, the proposed development has been laid out in a manner that meets the Council's adopted standards, including the provision of 27 Visitor parking spaces. For some houses the required second parking place is being provided within a garage so Officers recommend that permitted development rights are withdrawn to ensure that the garage is retained for its intended purpose.
- 6.24 In summary, the layout of the development is acceptable, adhering to relevant standards in respect of road design and car parking. The applicant has also demonstrated that pedestrian links will be provided that will link the new development to the existing settlement and its services and facilities

Design (Layout, Scale and Appearance)

- 6.25 Paragraph 124 of the NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Furthermore, Part 11 of the NPPF indicates that development should contribute to and enhance the natural environment and that impacts on biodiversity should be minimised.
- 6.26 Only the access to the site was approved by the Planning Inspector when outline planning permission was granted. There were no other approved drawings listed in the decision letter and there was no masterplan or parameters plan which fixed the layout or scale of the development.

- 6.27 The application proposes a development of no.110 two-storey detached or semi-detached dwellings, with 2, 3 or 4 bedrooms.
- 6.28 The site is situated on the edge of the settlement and the suburban form of development is considered an appropriate style given the site context and as a transition to the countryside beyond. The applicants Design and Access Statement considers the character and appearance of the built form within the village and this has led to a traditional style of architecture being applied to the dwellings with a simple palette of materials with facing bricks being the predominant material, but with weatherboarding and render to provide variation and visual interest. The housing mix and house types are considered acceptable, by creating a development with its own distinctive character whilst also responding to the character and distinctiveness of the surrounding area.
- 6.29 A refuse storage plan has been submitted with the application. The Council's Waste Management team have been consulted on the application and they have raised no objection. The layout will require a number of refuse collection points where refuse crews will collect from, so that both residents and refuse crews do not have to carry refuse an unacceptable distance. No details have been provided of how these refuse collection areas will be constructed. Condition 17 of the Outline Planning permission requires the submission of details of refuse storage and collection points. The applicant will need to provide further details to discharge this condition, including details of appropriately located and designed refuse collection points.
- 6.30 In conclusion on this issue it is considered that the proposal provides an acceptable layout and detailed design in compliance with the NPPF and the development plan.

Impact on Heritage Assets

- 6.31 Policy EN23 of the adopted 2007 Local Plan states development affecting a listed building or its setting will only be permitted where it, amongst other things, does not have an unacceptable effect on the special architectural or historic character and appearance of the building or its setting. These sentiments are echoed in Policy PLA8 of the draft Local Plan. The NPPF also attaches great importance to the protection of the historic environment, including designated heritage assets such as Conservation Areas and Listed Buildings.
- 6.32 The site is not located within a Conservation Area but no.127 Thorpe Road, also known as Mill House, is a Grade II listed building (formerly listed as group of 3 thatched cottages west of Methodist Chapel). The listing states the building dates to the 16th Century with 17th Century alterations. The listed building is adjacent to the proposed footpath link to the north east of the site. The applicant submitted a Heritage Statement as part of the outline planning application which highlighted that the building was already hemmed in by neighbouring properties along Thorpe Road and this had already eroded the setting of the building. The applicant claimed that the significance of the building lies mainly in its surviving architectural features. The Planning Inspector in considering the potential impact on the listed building stated 'There are modern houses on either side of the building. It has a good-sized rear garden which backs onto the appeal site and I saw on my visit that its garden is enclosed to a large extent by trees and hedges'. They considered that it was possible to develop a scheme that would avoid any harm to the setting of the building.
- 6.33 Whilst it is noted that this scheme would introduce two-storey houses to the rear of the listed building, as opposed to bungalows on the previous Reserved Matters application, Officers are satisfied that this proposal would preserve the buildings significance.
- 6.34 The owner of no.127 Thorpe Road has objected to this application citing concerns about the impact that two storey buildings; the new lighting and means of enclosure along the

pedestrian link would have on the setting of the listed building. They have also requested that the Council seek advice from our Historic Buildings Consultant and Officers have discussed the proposals and the neighbour's objection. The Council's Historic Buildings Consultant has confirmed that in light of the Planning Inspectors comments and the grant of Outline Planning permission, and having reviewed the proposed detailed layout, he has confirmed that this raises no concern or need to comment.

- 6.35 Finally the owners of no.127 Thorpe Road are concerned about the potential damage to their building that could be caused if utilities were to be routed along the pedestrian path but this point was raised at the appeal, to which the Planning Inspector concluded that there was no evidence before them to indicate that there would be any harm in this respect.
- 6.36 In conclusion, with the imposition of appropriately worded conditions, Officers consider that the proposals would preserve the setting of the listed building.

Living Conditions

- 6.37 NPPF para. 127 states that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.38 There are residential properties adjoining the site along the northern and eastern site boundaries. These properties contain a mix of single storey, one and a half storey and two storey dwellings.
- 6.39 A number of objectors do not believe that it is appropriate for two storey housing to be erected to the rear of existing single storey dwellings. The Essex Design Guide (EDG) contains guidance on how new housing development should be laid out in order that the privacy and amenity is protected for both future occupants of new houses, as well as residents living in properties which are next to development sites. A distance of 25 metres is recommended between the rear elevations of properties which are parallel to each other. In addition. The EDG also recommends that for new development which will be parallel rear facing existing dwellings, the new housing should not be erected within 15 metres of the boundary. Officers were not satisfied that the original layout met this guidance and the applicant was required to alter the layout along the eastern boundary to ensure an acceptable relationship to existing properties on Chapel Lane.
- 6.40 On the western side of the site Officers consider the arrangement of Plots 2 and 3 to be acceptable. These new houses are not parallel to the neighbouring properties but stand side on to the neighbours at no.169 and no.173 so that the front and rear elevations will overlook the rear gardens of the neighbour's properties. The developer has acknowledged the sensitivity of these plots and have proposed additional planting along the boundaries and has amended the housetype that will be used on Plot 2 so that the first-floor windows on the rear elevation will only have one 'false' window and one obscure glazed window. To protect neighbouring amenity the EDG also suggests that the area immediately at the rear of properties should not be overlooked as this is often used as a private sitting out area and the new dwellings would not directly overlook these areas. Officers therefore consider that whilst the development will result in some overlooking of those properties rear gardens, on-balance the relationship is acceptable.
- 6.41 In a number of locations dwellings are proposed to be erected near the site boundary / the rear gardens of neighbouring properties, such as Plot 32. These buildings have a blank side gable (other than a small ground floor window to a w/c on one of the house types) that faces towards the neighbouring properties on Chapel Lane or Thorpe Road. Any new openings at first floor level in that elevation would require planning permission unless they

are obscure glazed and non-opening above 1.7m, this would therefore protect neighbouring amenity without needing to impose a planning condition.

- 6.42 Officers have considered the proximity and relationship of the dwellings at Plots 48-51 to the properties to the north. The arrangement of the dwellings is similar to that which the Council previously approved in this part of the site. Whilst the previously approved scheme featured bungalows these were relatively tall single storey dwellings. To reduce the massing of these houses and any sense of overbearing the roof has been hipped. The change to the roof form and the fact that the houses are set off the boundary, with parking bays to the side, means that there would not be material harm to neighbouring properties in terms of light and privacy. In light of all these factors Officers consider the layout and revised houses are on-balance acceptable in this location.
- 6.43 The proposed layout shows a combined foul and surface water pumping station, to the north of the equipped play area and to the south of no.153 & 155 Thorpe Road. There is a landscaped buffer around the pumping station and it complies with relevant 'sewers for adoption' guidance in relation to 15 metre separation to habitable buildings to minimise the risk of odour, noise or nuisance.
- 6.44 The railway line runs along the southern boundary of the site and the layout proposes that dwellings are erected which back onto the line. The Planning Inspector imposed a condition (no.16) which requires details of noise mitigation measures to ensure that residents in these new properties enjoy a reasonable standard of amenity. These details must be submitted and approved prior to the commencement of development.
- 6.45 Policy HG9 of the adopted Local Plan specifies that private amenity space shall be provided to new dwellings with three or more-bedroom houses requiring a minimum of 100 square metres, whilst two-bedroom houses require a minimum of 75 square metres. Each house is provided with a private garden which would meet or exceed the Council's adopted standards.

Landscaping

- 6.46 Part 15 of the NPPF indicates that development should contribute to and enhance the natural environment and that impacts on biodiversity should be minimised.
- 6.47 The main body of the application site is set to grass that has become overgrown since the use of the site for the keeping of horses ceased.
- 6.48 The site contains several mature trees on and close to site boundaries and within the centrally situated hedgerow. There are two Tree Preservation Orders on the site – The trees covered by the 1998 order (TPO/98/19) are predominantly English Oaks that are situated to the north of the westernmost section of the application site intended for use as public open space and attenuation pond. The second order, which was made in 2016 (16/01/TPO) protects 1 Ash and 10 Oak trees, situated on the eastern boundary of the land and in the hedgerow that runs from north to south, to the south of 155 Thorpe Road.
- 6.49 Condition no.7 of the Outline Planning Permission required the submission of tree protection measures, however Officers requested that the applicant submit an Arboricultural Impact Assessment (AIA) with this Reserved Matters application to allow Officers to assess the potential impacts of the development on the trees on and around the site. The Council's Tree and Landscape Officer has assessed this report and commented that the proposed layout would allow the retention of all the protected trees on the site that are covered by tree preservation order. Some minor works to remove branches from trees on the eastern boundary are proposed but the Council's Tree and Landscape Officer is satisfied that sufficient information has been provided to show that the health, condition and long-term

viability of retained trees will not be adversely affected by the construction of the development. The applicant will need to formally discharge Condition no.7 of the Outline Planning Permission which requires that the development is carried out in accordance with the tree protection measures approved by the Council.

- 6.50 The applicant has provided comprehensive soft landscaping details and it is considered that this will adequately soften, screen and enhance the appearance of the development.
- 6.51 Additional information has also been provided in relation to the attenuation basin which has a 1 metre levels change between the top and bottom of the basin with a 1 in 3 slope so represents a usable area in relation to recreation, except following storm events when it will serve its intended purpose.
- 6.52 The plans also show the existing overhead power lines which cross a section of the site proposed for open space to be buried underground. As per the previous reserved matters approval this forms a recommended planning condition.

Ecology

- 6.53 When the Outline planning permission was granted the Inspector considered the potential impact of development on ecology, including protected species. Condition 14 of the Outline planning permission states that no development shall take place until an Ecological Mitigation Scheme and Management Plan has been submitted to and approved by the Council. The scheme shall include survey information to establish whether any protected species would be affected by the development and the detail of any necessary mitigation measures.
- 6.54 Since the Outline Planning Permission was granted the Council has received a number of representations in respect of a pair of Barn Owls that had been reported to be observed at the site.
- 6.55 One representation has claimed that a local resident has previously observed workmen carrying out activities intended to frighten barn owls which might be present on the site. This is a potentially serious matter as barn owls are listed on Schedule 1 of the Wildlife and Countryside Act, 1981; therefore, the birds, their nests, eggs and young are fully protected. The resident who made this statement went on in their representation to state that they had reported the matter to the Police for investigation and as a result the Council's responsibility is to ensure that any barn owls on the site are protected from harm arising from the proposed development.
- 6.56 Officers have requested that the applicant produce an updated report which considered the likely impact of development on the Barn Owls. The report produced by the applicants Ecologist confirms evidence of owls nesting in an old metal and asbestos shed on the site – a structure that would be demolished to facilitate the development.
- 6.57 Due to the need to demolish the building containing the nest the applicant proposes a barn owl mitigation strategy. The strategy has four strands – the implementation of a buffer zone (if development commences before mitigation has been implemented), on-site mitigation, off-site compensation and pre-demolition survey.
- 6.58 *Pre-demolition survey & Buffer Zone* – to ensure that the subject building containing the nest is not demolished until a suitably qualified ecologist has established that the nest is not in use, or in the event that it is in use by owls then no development including demolition is allowed, until such time as the Barn Owl Strategy is approved by the Council.

- 6.59 *Off-site compensation* - Two barn owl nest boxes will be provided offsite: one in adjacent land and one donated to Essex Wildlife Trust, to be used within 500m of the current nesting site. These boxes are intended to help mitigate the loss of the building which contains a nest.
- 6.60 *On-site mitigation* - One further barn owl nesting box will be installed within the south-western corner of the application site post development completion as to not face any disturbance during the development.
- 6.61 Future monitoring of each barn owl box undertaken by EWT or a suitable qualified licenced barn owl ecologist will also be required to demonstrate that the strategy has been implemented to maintain the breeding site locally and preserve the local conservation status of this species. The Council's ecological advisor has reviewed the applicants Strategy and is satisfied that the measures proposed in that report will suitably mitigate for the impact on this protected species subject to the three conditions contained within the recommendation.
- 6.62 Surveys in 2015 and 2019 have identified a small population of common lizard and slow worm on the boundary of the site as well as a juvenile adder. The applicant has submitted a Reptile Mitigation Strategy as a result. The Strategy proposes that under the supervision of a suitably qualified ecologist the habitats within the site will be manipulated so as to drive the reptiles towards a reptile receptor area within the south western corner of the site and disperse into adjoining suitable habitats off site along the southern boundary. Once the ecologist is satisfied the reptiles have been moved reptile fencing will be erected to prevent them from returning into the development site. The receptor area will also be provided with two hibernacula which will provide hibernation, foraging and basking opportunities for reptiles. The Council's ecological advisor has reviewed the applicants Strategy and is satisfied that the measures proposed in that report will suitably mitigate for the impact on this protected species.
- 6.63 The development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped in the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This residential development lies within the Zoi for Hamford Water SPA and Ramsar, Colne Estuary SPA and Ramsar, Blackwater Estuary SPA and Ramsar, Dengie SPA and Ramsar, and Essex Estuaries SAC. Hamford Water SPA and Ramsar site are the closest European sites and are located around 5.7km northeast of the application site. The outline planning permission did not secure a contribution towards RAMS or mitigation to contain recreation within and around the development site. In the contemporary context of the Council's duty as competent authority under the Habitats Regulations, it is anticipated that without mitigation, such new residential development would have a likely significant effect on the sensitive features of the coastal European sites, through increased recreational pressure when considered 'in combination' with other plans and projects. It is considered that the proposal falls within the scope of RAMS as 'relevant development'.
- 6.64 One recommended way of trying to avoid increasing recreational pressures on the coastal European sites is to encourage dog walkers to exercise their dogs near their homes and not drive to the protected sites. The applicant has submitted a plan which identifies a 4.5km walking route utilising the public open space within the site and public rights of way network to the north of the site. The previous Reserved Matters application identified alternative circular walking routes which involved crossing the railway line. It is evident that there is a safe, attractive circular walking route from the site and Officers recommend a condition that this route is publicised within the Residents Travel Information Packs that are required by Condition no.12 of the Outline Planning Permission.

- 6.65 Natural England state that provided their guidance is adhered to, an ‘adverse effect on the integrity’ (AEOI) of the European sites included within the Essex Coast RAMS from increased recreational disturbance can be ruled out subject to the mitigation sought and to be secured by condition and planning obligation.
- 6.66 The Council has produced a Habitat Regulations Assessment (HRA) setting out the mitigation that is proposed – namely the dog walking routes, that will be publicised to new residents, and the provision of a dog waste bin, and a RAMS payment of £122.30 per dwelling (£13,453 based on 110 dwellings), is proposed to be included within a Unilateral Undertaking (UU), pursuant to S106 of the Town and Country Planning Act 1990, to fund strategic off-site measures. These measures should be targeted towards increasing the relevant European sites’ resilience to recreational pressure (such as schemes to provide wardens at the protected sites who will help manage and educate visitors) and be in line with the aspirations of the emerging RAMS. In their consultation response Natural England confirm that they have no objection to the proposal subject to the specified mitigation being secured through planning condition and legal obligation. The applicant has accepted the need for a unilateral undertaking to legally secure payment of the required financial contribution and this is currently with them for action.

Section 106 legal agreement

- 6.67 The Planning Inspector accepted a legal agreement to secure planning obligations as part of the grant of outline planning permission. This specified financial contributions to provide additional capacity for primary education places (at Kirby Primary Academy, Hamford Primary Academy, and/or Frinton-on-Sea Primary School) and the health service (£33,300 for additional healthcare services at Thorpe Surgery and/or Caradoc Surgery). The agreement also covered public open space requirements, including a sum for future maintenance of the Open Space as this will be transferred to the District Council.

Affordable Housing

- 6.68 The S106 agreement that formed part of the Outline Planning permission specified that affordable housing would be provided on-site, either as 25% of the total number of dwellings erected and transferred to a Registered Provider, or as 8 units which would be transferred to the Council at a nominal charge, in accordance with draft policy LP5 of the emerging local plan.
- 6.69 The applicant has proposed that they will gift 4 x 2-bed houses and 4 x 3-bed houses to the Council. Whilst noting that the mix of housing offered is different to that which the Council accepted on the previous Reserved Matters application (4 x 2-Bed Flats; 2 x 4-Bed Houses and 2 x 2-Bed Bungalows) they confirm they are happy with the applicants offer. The location of the eight Affordable Homes within the development has been shown to be in a single cluster in the bottom south western corner of the site and the Council’s Housing Officers consider this arrangement to be acceptable.

Open Space Plan and Specification

- 6.70 Schedule 3 of the legal agreement requires the applicant to submit an Open Space Plan and a specification for the setting out of the Open Space and Local Area of Play (LAP) and for these to be approved by the Council prior to the commencement of development and that the Open Space is subsequently set out and transferred to the Council along with the payment of a commuted sum for maintenance of £42,240. The planning drawings show that a ‘Local Area of Play’ (LAP) is to be provided as part of the central green. The legal agreement requires submission of the Open Space specification, including the equipped play area, as part of the Reserved Matters application. Additional information has been provided as the original proposal provided insufficient play equipment and associated

fencing. The Council's Open Spaces Officer has advised that the proposed details are acceptable.

Other Matters

Drainage

- 6.71 The Inspector considered the issue of surface water drainage as part of their consideration of the application for Outline planning permission. They concluded that it had been demonstrated that the appellant had presented a feasible surface water drainage strategy for the site. A condition was imposed as part of the Outline planning permission (Condition no.9) which states that no development shall take place until a detailed surface water drainage scheme has been submitted to and approved by the Council. This condition means that the applicant has not been required to provide these details as part of this application for approval of Reserved Matters. The Lead Local Flood Authority – Essex County Council – will assess the detailed scheme when it is submitted and development cannot commence until such time as the scheme is approved.
- 6.72 In respect of foul water drainage in December 2015 Anglian Water advised that the waste water treatment centre and the network of sewers connecting the site to the treatment centre had capacity to accept the foul water flows from the development. Anglian Water now advise that there would be a risk of flooding as the sewers now have insufficient capacity to accommodate the flows safely and they recommend conditions requiring submission of a phasing plan for the development and the agreement and implementation of a foul water drainage strategy. The outline planning permission already requires the submission and agreement of a phasing plan but it is recommended that a condition is added requiring the applicant to agree foul water drainage works prior to the occupation of any phase. The proposed layout shows a combined foul and surface water pumping station, to the north of the equipped play area and to the south of no.153 & 155 Thorpe Road. There is a landscaped buffer around the pumping station and it complies with relevant 'sewers for adoption' guidance in relation to 15 metre separation to habitable buildings to minimise the risk of odour, noise or nuisance.

Boundary Dispute

- 6.73 The Council has received a representation from the owner of no.141 Thorpe Road in which they have claimed that there is a boundary dispute as they consider that the boundary fence erected by the developer is on land that they own. The neighbour has gone on to state that they are pursuing this matter through a conveyancing solicitor. Land ownership disputes are a civil matter and the neighbour will need to pursue this matter through the legal process. It is not a planning matter and should not prevent the determination of this application.

Railway Boundary Fence

- 6.74 The Council has received a representation from the British Transport Police Designing Out Crime Unit. They note that the housing development will result in an increase in public activity adjacent to the railway line. Although the existing railway line boundary fence may be outside the application site British Transport Police recommend that the existing fencing is assessed and an appropriate new boundary fence erected in the event that the existing fence is found to not meet the required standard given the increase in public activity. Network Rail and Essex Police were consulted on the previous applications and whilst neither made such a recommendation, British Transport Police have now, and as the recommendation meets the six tests for a planning condition (necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects) a condition is recommended.

7 Conclusion

- 7.1 The application site lies outside the adopted Kirby Cross settlement development boundary but the principle of residential development has already been established by a Planning Inspector granting outline planning permission for the development of up to 110 dwellings.
- 7.2 The submitted application seeks the approval of Reserved Matters (relating to appearance, landscaping, layout and scale) for 110 dwellings pursuant to condition 1 of outline planning permission ref: 15/01710/OUT.
- 7.3 Access to the site – a new vehicular access off Thorpe Road and three pedestrian paths connecting to Thorpe Road and Chapel Lane – were all established during the consideration of the Outline Planning application. The Highway Authority have carefully considered the submitted layout and have confirmed that they have no objection, subject to the imposition of conditions.
- 7.4 Following the submission of revised plans Officers consider that the scale, layout, density, height and massing and overall elevation design of the dwellings is acceptable and would not give rise to an unacceptable loss of amenity for existing residents adjoining the site.
- 7.5 In respect of landscaping the Council's Tree and Landscape Officer considers that the landscaping of the site would be appropriate and with regard to ecology, mitigation measures to enable increasing the relevant Europeans sites' resilience to recreational pressure would be in line with the aspirations of the emerging RAMS, and that the potential impact upon Barn Owls and Reptiles can and will be suitably mitigated.

8 Recommendation

- 8.1 The Planning Committee is recommended to grant reserved matters approval 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 new dwelling

8.2 Conditions and Reasons

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

Site Location Plan – TW019-PL-01
Concept Development Layout – TW019-PL-02 Rev L
Detailed Layout – TW019-PL03 Rev I
Landscape Plan – TW019-PL04 Rev H
HA Location Plan – TW019-PL06 Rev G
Storey Height Plan – TW109-PL08 Rev G
Garden Areas – TW109-PL09 Rev E
Housetype Ashenford NA20a – TW019-HA-NA20a-01 Rev 00
Housetype Ashenford NA20b – TW019-HA-NA20b-02 Rev A
Housetype Coltford NA34 – TW019-HA-NA34-01 Rev 00
Housetype Byford NA32a – TW019-HT-NA32a-01 Rev A
Housetype Byford NA32b (Boarding) – TW019-HT-NA32b-02 Rev A
Housetype Manford NA44 – TW019-HT-NA44-01 Rev B
Housetype Possdale NA40a – TW019-HT-NT40a-01 Rev C
Housetype Possdale NA40c – TW019-HT-NT40c-02 Rev B

Housetype Waysdale NT42 – TW019-HT-NT42-01 Rev B
 Housetype Waysdale NT42a – TW019-HT-NT42a-02 Rev C
 Housetype Waysdale (Boarding) - NT42b – TW019-HT-NT42b-03 Rev B
 Housetype Waysdale NT42c – TW019-HT-NT42c-04 Rev A
 Housetype Canford PA25 – TW019-HT-PA25-01 Rev C
 Housetype Gosford PA34a – TW019-HT-PA34a-01 Rev C
 Housetype Gosford PA34b – TW019-HT-PA34b02 Rev C
 Housetype Gosford PA34c – TW019-HT-PA34c-03 Rev A
 Housetype Easedale PT36a – TW019-HT-PT36a-01 Rev A
 Housetype Easedale PT36c – TW019-HT-PT36c-02 Rev B
 Housetype Yewdale PT37a – TW019-HT-PT37a-01 Rev E
 Housetype Yewdale PT37b – TW019-HT-PT37b-02 Rev B
 Housetype Yewdale PT37c – TW019-HT-PT37c-03 Rev A
 Garage Types – TW019-GR-01
 Garage Types - TW109-GR-02
 Sub-Station - Tw019-sub-01 rev a
 Street Scenes – TW019-ST01 Rev.B
 Soft Landscape Proposals 1 of 10 - 19.4068.01.F
 Soft Landscape Proposals 2 of 10 - 19.4068.02 D
 Soft Landscape Proposals 3 of 10 - 19.4068.03.E
 Soft Landscape Proposals 4 of 10 - 19.4068.04.D
 Soft Landscape Proposals 5 of 10 - 19.4068.05.E
 Soft Landscape Proposals 6 of 10 - 19.4068.06.D
 Soft Landscape Proposals 7 of 10 - 19.4068.07.D
 Soft Landscape Proposals 8 of 10 - 19.4068.08.D
 Soft Landscape Proposals 9 of 10 - 19.4068.09.E
 Soft Landscape Proposals 10 of 10 - 19.4068.10.F
 Updated Barn Owl Ecological Advice Note (SES, November 2019)
 Reptile Mitigation Strategy (SES, November 2019)
 Attenuation Basin Plan
 Circular Dog Walking Route 19.4668.11
 Pump Station Details 5793:101 Rev B
 AIA 7658.D.AIA Rev A
 Root Investigation 7816-D-R1
 Root Investigation 2 7816-D-R1 2
 Preliminary Arboricultural Method Statement Proj, 7658 Rev A
 Arboricultural Monitoring Report Proj. 7816

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

2. All mitigation measures and/or works shall be carried out in accordance with the details contained in the Updated Barn Owl Ecological Advice Note (SES, November 2019) and Reptile Mitigation Strategy (SES, Nov 2019). This may include the appointment of an appropriately competent person e.g. a suitably qualified ecologist holding a Natural England Barn Owl Licence, to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve Protected species and allow the Local Planning Authority to discharge its duties under the Wildlife & Countryside Act 1981 as amended and s17 Crime & Disorder Act 1998 (wildlife crime).

3. No development shall take place, including demolition, ground works and vegetation clearance, until a biodiversity monitoring strategy for Barn Owls has been submitted to, and approved in writing by, the Local Planning Authority. The purpose of the strategy

shall be to monitor the success of the replacement nest box for Barn Owls. The content of the Strategy shall include the following.

- a) Aims and objectives of monitoring to match the stated purpose.
- b) Identification of adequate baseline conditions prior to the start of development.
- c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
- d) Methods for data gathering and analysis.
- e) Location of monitoring.
- f) Timing and duration of monitoring.
- g) Responsible persons and lines of communication.
- h) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the Local Planning Authority at intervals identified in the strategy. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the Local Planning Authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The monitoring strategy will be implemented in accordance with the approved details.

Reason: To allow the Local Planning Authority to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended.

4. Prior to the occupation of each dwelling the internal road and footway serving that dwelling shall be provided in principal and accord with drawing number TW019-PL-02 Rev L Concept Layout Drawing.

Reason: To ensure acceptable vehicle and pedestrian access to each dwelling.

5. Prior to the commencement of any above ground works, details of the estate roads and footways, including the three footway links proposed to Thorpe Road and Chapel Lane (including layout, levels, gradients, surfacing, means of enclosure, lighting, soft landscaping, bollards and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. 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.

6. 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.

7. Prior to the commencement of any above ground works, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been completed in full accordance with the approved scheme.

Reason: To prevent environmental and amenity problems arising from flooding.

8. Each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles and each vehicular parking space shall have

minimum dimensions of 2.9 metres x 5.5 metres. All single garages should have a minimum internal measurement of 7m x 3m and all double garages should have a minimum internal measurement of 7m x 5.5m

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

9. Prior to the development above ground level the details of the number, location and design of a covered parking facility for bicycles shall be submitted to and approved in writing by the local planning authority. The approved cycle parking facility shall be provided prior to occupation of each dwelling that it will serve.

Reason: To ensure appropriate bicycle parking is provided in accordance with the Council's adopted Parking Standards.

10. No dwelling shall be occupied until such time as its car parking/garaging and turning area as shown on the approved plans has 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.

11. The garage hereby permitted on Plots 1, 16, 17, 20, 23, 27, 28, 31, 32, 33, 86, 87, 92, 93, 101, 102 and 110 shall only be used for the parking of vehicles or for domestic storage associated with the dwelling and not used for living accommodation.

Reason: To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the local planning authority.

12. The bathroom window on the west facing elevation on Plot 2 shall be glazed with obscure glass and shall be so maintained at all times.

Reason: In order to safeguard the privacy of adjoining occupiers.

13. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no additional windows, doors, rooflights, or dormer windows, as permitted by Classes A, B and C of Part 1 of Schedule 2, other than those indicated on the approved plans shall be constructed on the western elevation/roof slope of the dwelling hereby permitted on Plot 2 without first obtaining planning permission from the local planning authority.

Reason: In order to safeguard the privacy of adjoining occupiers.

14. Prior to occupation of Plots 36, 37, 38, 39, 40 or 41 the pedestrian link between the estate road and Thorpe Road, and running between no. 155 Thorpe Road and no. 159 Thorpe Road, shall have been constructed in accordance with the approved details and shall be available for public access and thereafter retained and maintained in the approved form.

Reason: To ensure footways are constructed to an acceptable standard and available for the public to use, to encourage more sustainable modes of transport and to reduce reliance on the private car.

15. Prior to occupation of Plots 54, 55, 56 or 57 the pedestrian link between the estate road and Thorpe Road, and running between no. 129 Thorpe Road and no. 127 Thorpe

Road, shall have been constructed in accordance with the approved details and shall be available for public access and thereafter retained and maintained in the approved form.

Reason: To ensure footways are constructed to an acceptable standard and available for the public to use, to encourage more sustainable modes of transport and to reduce reliance on the private car.

16. Prior to occupation of Plots 64, 65, 66, or 67 the pedestrian link between the estate road and Chapel Lane, running between no. 22 Chapel Lane and no. 24 Chapel Lane, shall have been constructed in accordance with the approved details and be available for public access and thereafter retained and maintained in the approved form.

Reason: To ensure footways are constructed to an acceptable standard and available for the public to use, to encourage more sustainable modes of transport and to reduce reliance on the private car.

17. The Residential Travel Packs that are to be provided pursuant to Condition no.12 of planning permission 15/01710/OUT, shall include the following;

- a) Information regarding the safe use of level crossings over the railway lines and the dangers of failing to use them properly.
- b) Details of the approved circular walking routes to and from the site, which can be used by residents along with specific encouragement for dog walkers to use these routes.

As required by condition no.12 of planning permission (15/01710/OUT) the Residential Travel Information Packs shall have been previously submitted to and approved in writing by the local planning authority, and shall be provided to the first occupant of each new dwelling.

Reason: To promote the safe use of railway level crossings and to encourage the future residents to remain on-site for day to day recreation/dog walking, so as to minimise pressures upon Hamford Water SPA and Ramsar, Colne Estuary SPA and Ramsar, Blackwater Estuary SPA and Ramsar, Dengie SPA and Ramsar, and Essex Estuaries SAC pursuant to the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy.

18. The scheme of landscaping as shown on the approved Soft Landscape Proposals Plans, or such other scheme as may be agreed in writing by the local planning authority, shall be carried out during the first available planting season after the commencement of the development. Any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.

Reason: To ensure a satisfactory scheme of hard and soft landscaping to enhance the appearance of the development.

19. Prior to the commencement of any above ground works, full details of the route of the underground power line shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: As insufficient information has been provided with the application, in the interests of visual and residential amenity, and the Grade II listed building Mill House at 127 Thorpe Road.

20. Prior to the first occupation of the development hereby approved, a strategy to ensure that there is a boundary fence between the proposed development and the railway line which conforms to Network Rail design standards, shall be submitted to and approved in writing by the Local Planning Authority. The strategy will include full details of the location, construction and condition of the current boundary fence on the railway boundary and in the event that the part or all the existing fence does not conform to current Network Rail standards, details of how an appropriate boundary fence will be provided. Any works specified in the approved strategy shall be carried out in accordance with the approved strategy prior to the first occupation of the development.

Reason: To ensure that the increase in public activity resulting from the development does not result in an increase in trespass or anti-social behaviour on the railway line that would be detrimental to the safety of member of the public and railway users.

8.3 Informatives

1) 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.

2) 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.

3) 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.

4) Any tree planting proposed within the highway must be agreed with the Highway Authority. Trees must be sited clear of all underground services and visibility splays and must be sympathetic to the street lighting scheme. All proposed tree planting must be supported by a commuted sum to cover the cost of future maintenance, to be agreed with the Highway Authority.

5) Desktop analysis has suggested that the proposed development will lead to an unacceptable risk of flooding downstream. We therefore highly recommend that you

engage with Anglian Water at your earliest convenience to develop in consultation with us a feasible drainage strategy. If you have not done so already, we recommend that you submit a Pre-planning enquiry with our Pre-Development team.

Foul water drainage strategy will need to include a feasible drainage strategy agreed with Anglian Water detailing the discharge solution including:

Development size; Proposed discharge rate (Should you require a pumped connection, please note that our minimum pumped discharge rate is 3.8l/s); Connecting manhole discharge location (No connections can be made into a public rising main); Notification of intention to connect to the public sewer under S106 of the Water Industry Act.

Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

6) Anglian Water advise that they have assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore, the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

7) Given the close proximity to the operational railway line, if and before any works are undertaken the developer would need to engage with the ASPRO team (AssetProtectionAnglia@networkrail.co.uk) to ensure the protection of the railway line.

8) 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.

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.

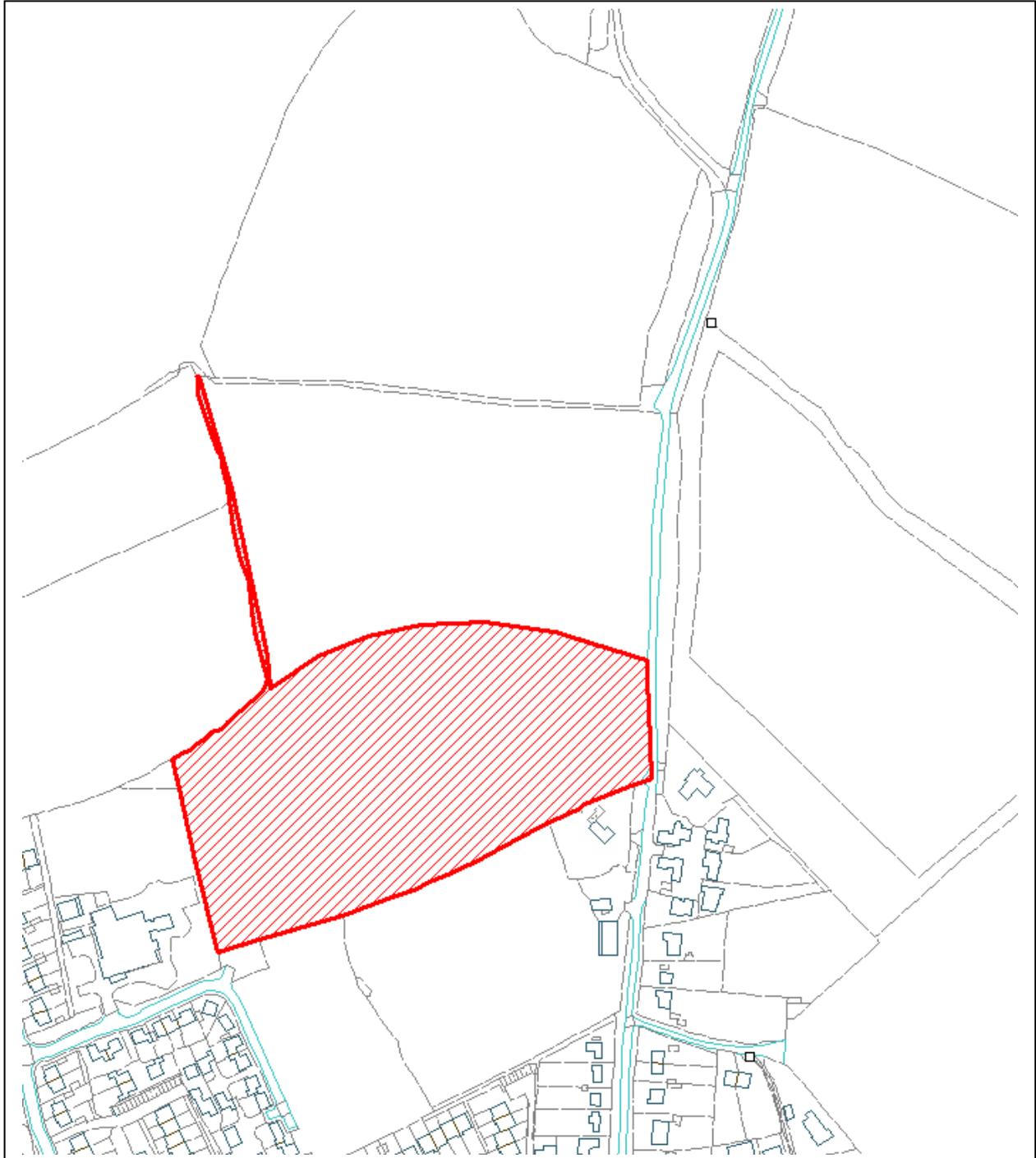
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PLANNING COMMITTEE

14 January 2020

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATION – 18/01884/FUL – LAND TO THE WEST OF CHURCH ROAD ELMSTEAD CO7 7AW



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Application: 18/01884/FUL

Town / Parish: Elmstead Market Parish Council

Applicant: Mr Newell - Newell Homes

Address: Land to The West of Church Road Elmstead CO7 7AW

Development: Erection of 41 no. residential dwellings, open space, allotments, parking, access and landscaping.

1. Executive Summary

- 1.1 This is an application for Full Planning permission, following the previous granting of 14/01292/OUT for 20 dwellings, a community hall, playing field and allotments. The proposal is for the erection of 41 dwellings, including the provision of 8 affordable homes together with means of access, parking, garaging, associated landscaping/allotments and public open space provision.
- 1.2 The site lies outside of the settlement development boundary for Elmstead Market within the adopted Local Plan, but in the emerging Local Plan it is specifically included within the defined settlement boundary. The emerging plan has now reached a relatively advanced stage of the plan-making process, and the Council relies on this to boost the supply of housing in line with government planning policy to demonstrate a five-year supply of deliverable housing land. As stated above the site benefitted from a previous planning permission for residential development including community facilities and this should carry considerable weight in the decision making process.
- 1.3 Following the approval of 14/01292/OUT on this site for 20 units, a community hall, playing field and allotments, a further housing development at Charity Field, Elmstead Market, was allowed on appeal which also made provision for a new community hall, allotments and public open space. Therefore, following the Charity Field approval the applicant approached the Parish Council to ascertain which location would be preferable for the new community hall and playing field. Consequently, the Parish Council formed a sub-committee which advised the applicant that the Charity Field site would be the preferred option and as a result the Charity Field applicant advised that it would be their intention to develop a new community hall as part of their development alongside an area of open space.
- 1.4 In view of the above it is the applicant's intention to include a financial contribution of £400,000 to assist in the delivery of a fully functioning community hall on the Charity Field site, whilst utilising the remaining land for the provision of additional housing.
- 1.5 The application is accompanied by a suite of technical drawings and documents supporting the proposal and overall it is considered that no significant adverse or cumulative effects on the local environment or population would be caused, with it being deemed to be compliant with legislation and planning policy.
- 1.6 Officers are content that subject to the imposition of reasonable planning conditions and S106 planning obligations that the general principle of this level of development on the site is acceptable. It is in keeping with both the site's location on the edge of the village along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features. Furthermore, the proposal would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts whilst significantly boosting housing supply within the district in line with the Council's own emerging Local Plan.

- 1.7 The recommendation is therefore to approve outline planning permission subject to the completion of a legal obligation under Section 106 of the Town and Country Planning Act 1990 and a number of controlling conditions.

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**
 - **Affordable Housing Provision 20% (8 units)**
 - **Education contribution - £172,307**
 - **Community Hall at Charity Field - £400,000**
 - **Open Space/Allotments – Transfer to management company or Elmstead Parish Council**
- 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

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

National Policy:

**The National Planning Policy Framework
National Planning Policy Guidance**

Local Plan Policy:

Tendring District Local Plan (2007)

- QL1 Spatial Strategy
- QL2 Promoting Transport Choice
- QL3 Minimising and Managing Flood Risk
- QL9 Design of New Development
- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts and Compatibility of Uses
- QL12 Planning Obligations
- HG1 Housing Provision
- HG3 Residential Development Within Defined Settlements
- HG3A Mixed Communities
- HG4 Affordable Housing in New Developments
- HG6 Dwelling Size and Type

HG7 Residential Densities
 HG9 Private Amenity Space
 HG14 Side Isolation
 COM1 Access for All
 COM6 Provision of Recreational Open Space for New Residential Development
 COM24 Health Care Provision
 EN1 Landscape Character
 EN6 Biodiversity
 EN6A Protected Species
 EN6B Habitat Creation
 EN11A Protection of International Sites European Sites and RAMSAR Sites
 EN11B Protection of National Sites SSSI's, National Nature Reserves, Nature
 Conservation Review Sites, Geological Conservation Review Sites
 TR1A Development Affecting Highways
 TR2 Travel Plans
 TR3A Provision for Walking
 TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development
 SP2 Spatial Strategy for North Essex
 SP3 Meeting Housing Needs
 SP6 Place Shaping Principles
 SPL1 Managing Growth
 SPL2 Settlement Development Boundaries
 SPL3 Sustainable Design
 HP1 Improving Health and Wellbeing
 HP2 Community Facilities
 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
 CP1 Sustainable Transport and Accessibility
 CP2 Improving the Transport Network

Supplementary Planning Guidance:

Essex Design Guide
 Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 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.

2.3 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.

2.4 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.

2.5 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**

14/01292/OUT	Outline planning application (all matters reserved) for residential development, a community hall, green infrastructure open space including land for a sports field and allotments together with new vehicular and pedestrian accesses, parking, servicing, landscaping and utilities infrastructure.	Approved	12.12.2016
18/01884/FUL	Erection of 41 no. residential	Current	

dwelling, open space, allotments,
parking, access and landscaping

4. Consultations

ECC Highways Dept

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 of the development, the proposed road junction at its bell mouth junction with Church Road shall be constructed at right angles to the highway boundary and to the existing carriageway as previously approved and shown on, drawing no. J621/ 09 to a carriageway width of 5.5 metres with 2 metre width footways on both sides on both sides of the junction.

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety.

2. Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in accord with Drawing numbers:

- X571-PL-SK-002 Rev P02 - Internal Road Layout Swept Path Analysis.
- 17/28/03 Rev F - Proposed Site Plan

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

3. Prior to the commencement of 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.

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

4. Prior to first occupation of the site the provision of the following is required:

A footway as per CCE Drawing X571-PL-SK-003 Rev P04 (Proposed Site Access) associated drop kerbs and tactile paving to the specifications of the Highway Authority.

This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 278 of the Highways Act, 1980.

Reason: To make adequate provision within the highway for the additional pedestrian traffic generated within the highway as a result of the proposed development and to provide a link with the existing footway within Church Road.

5. All single garages should have a minimum internal measurement of length 7 metre x 3 metres and 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.

6. 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.

7. 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.

8. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement 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.

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: 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 the commencement of any work on the site a joint inspection of the route to be used by construction vehicles should be carried out by the applicant and the Highway Authority, to include photographic evidence. The route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority. The Highway Authority may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access by vehicles servicing the application site.

The construction vehicle route to the site should be clearly signed and a strict regime of wheel washing and street cleaning should be in place.

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.

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.

ECC SuDS Consultee

Having reviewed the Flood Risk Assessment, the associated documents, and the email from Cameron Gilmour (14/05/2019) which accompanied the planning application, we do not object to the granting of planning permission based on the following conditions:

Condition 1

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:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure. This testing should be located at all locations of proposed infiltration.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 100 year event plus 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.
- 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 should clearly show how surface water will be managed and discharged during construction. 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. If features are to be maintained by homeowners, they should be given clear instructions on

what needs doing, how it is to be done, and they can have maintenance done on their behalf by a maintenance company.

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.

Natural England

SUMMARY OF NATURAL ENGLAND'S ADVICE –

European designated sites

It has been identified that this development site falls within the 'Zone of Influence' (Zol) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

As you will be aware, 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 recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.). For further information on these sites, please see the Conservation Objectives and Information Sheets on Ramsar Wetlands which explain how each site should be restored and/or maintained

In the context of your 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 recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation, and note that you have recorded this decision within your planning documentation.

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS

We are satisfied that the mitigation described in your Appropriate Assessment is in line with our strategic-level advice (our ref: 244199, dated 16th August 2018 and summarised at Appendix 1). The mitigation should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these mitigation measures.

Housing Services

If we are looking at 8 affordable units, our preference would be 4 x 2 beds, 3 x 3 beds and 1 x 4 bed.

Anglian Water Services Ltd

Assets Affected

Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

Wastewater Treatment

The foul drainage from this development is in the catchment of Thorrington Water Recycling Centre that will have available capacity for these flows

Used Water Network

Development will lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. The developer has advised that a pumped solution will be implemented as per drawing 1809-211-S1001 and FRA 3.3, however, no pump rate has been provided to conduct accurate assessment at this time. We therefore request a condition requiring phasing plan and/or on-site drainage strategy.

Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets and the developer is proposing SuDS techniques via infiltration as per FRA 4.0.

Suggested Planning Conditions

Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval.

Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority.

Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

Reason - To prevent environmental and amenity problems arising from flooding.

ECC Schools Service

From the information I have received, I have assessed the application on the basis of 41 houses. Assuming that all of these units are homes with two or more bedrooms, a development of this size can be expected to generate the need for up to 3.69 Early Years and Childcare (EY&C) places; 12.3 primary school, and 8.2 secondary school places.

Early Years and Childcare

The proposed development is located within the Thorrington, Frating, Elmstead and Great Bromley Ward. According to Essex County Council's childcare sufficiency data, published in Summer 2017, there are 8 providers of early years and childcare in the area. Overall a total 12 places unfilled places were recorded. Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high quality early years and childcare provision to meet local demand. As there are sufficient places available in the area, a developers' contribution towards new childcare places will not be required for this application

Primary Education

This proposed development is located within the priority admissions area of Elmstead Primary School set out in Essex County Council's document 'Commissioning School Places in Essex'. The School has a permanent capacity of 208 places. The school is now full. The number of pupils is forecast to rise by 29 by the academic year 2020/21. The demand generated by this development would be in addition to this demand. Looking at the wider area (Tendring Primary Planning Group 3) these forecasts suggest a need for an extra 125 places. Essex County Council's '10 Year Plan' to meet demand for school places, states that multiple school expansion projects are being considered at schools in the Group for September 2019 onwards. It is clear from the above information that additional primary school places will be needed. This development would add to that need and, thereby, the scope of projects to provide additional school places is directly related to the proposal. The contribution sought is based on the formula, established in the Essex County Council Developers' Guide to Infrastructure Contributions, which calculates sums based on the number and type of homes built. The contribution will thus be fairly and reasonably related in scale and kind to the development and, thereby, Community Infrastructure Levy regulation 122 compliant. A project to provide sufficient school capacity is, thereby, needed. The estimated cost of the project is £187,956 at April 2018 costs. This equates to £15,281 per place and so, based on demand generated by this proposal set out above, a developer contribution of £187,956, index linked to April 2018, is sought to mitigate its impact on local primary school provision.

Secondary Education

With regards to secondary education needs, this proposed development is located within the priority admissions area of Colne Community School this

development will increase need for places in this area however due to current pooling restrictions we will not be in a position to request a contribution.

Having reviewed the proximity of the site to the nearest secondary schools, Essex County Council will be seeking a school transport contribution of £71,022. The developer should ensure that safe direct walking and cycling routes to local schools are available also.

In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on childcare, education and school transport. Our standard formula s106 agreement clauses that ensure the contribution would be fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

Essex County Council
Archaeology

A programme of archaeological evaluation has been carried out on the above site in response to a condition on a previous application 14/01292/FUL. The evaluation revealed sparse archaeological remains and a report was submitted and approved. There is no requirement for any further archaeological investigation and no recommendations for the above application.

5. Representations

- 5.1 Elmstead Parish Council would like to return a neutral comment for the above application.

The reason for our neutral comment is due to the fact the Parish Council agrees with certain parts and disagrees with other areas. We would highlight the following comments:

Elmstead Parish Council supports section 5.6 of the amended planning statement dated November, which includes a £400,000 financial contribution to the Charity Field Community Centre project. We would like Tendring District Council to ring-fence this contribution to the development on Charity Field, Elmstead, reference 18/01863/DETAIL.

Elmstead Parish Council supports section 5.7 of the amended planning statement dated November, which includes 0.18 ha of allotment land to be gifted to the village of Elmstead. We understand that this allotment land will be fully prepared by the developer for the use of allotments, not just given as a piece of land. We also understand that parking will be supplied for the allotment users.

Elmstead Parish Council does not support section 5.10 of the amended planning statement dated November. The Parish Council has never agreed to remove the sports ground and the previously agreed £90,000 assigned to this project. As we have previously stated to the developer, our village project of utilising this sports field with the adjoining cricket club, was to create a sports community area, sharing the current changing rooms and catering facilities within the cricket club. The removal of the community centre from this project does not affect this village sports community project and we would request this is still included as part of the planning application. The original application was approved on a Tilted Balance agreement, stating all facilities will be supplied as part of the agreed approval, we request that is strongly defended on this new application. The village has limited playing area for the youth and adult community of Elmstead and removal of this facility will have a

detrimental effect on our parishioners. During school hours the community has nowhere to go, as the playing field we lease for the benefit of the parishioners is used solely by Market Field School, highlighting the need for additional playing areas. All parties agreed to this development and approval was gained due to the Tilted Balance element, removal of this would not have gained previous planning approval.

Elmstead Parish Council supports the many comments posted by the public on the planning application portal, about the safety of additional houses adjacent to the cricket club. The original design of 20 dwellings had the sports field as a buffer between the dwellings and the cricket club. Currently this field is constantly receiving cricket balls that are hit over the boundary during games held all week at the cricket club. With the new design of dwellings being close to the edge of the cricket club boundary, we have concern for the safety of both dwellings and the people that live in them. If approval is gained for the additional houses, we would like the developer to supply and pay for an agreed safety fencing to be supplied along the boundary of their development to the cricket club. We request consultation of the agreed specification of this fencing, as this is a specialist fencing that needs to be at a higher than normal specification to stop cricket balls being hit into this area.

Elmstead Parish Council does not support the addition of 21 dwellings to the Church Road development. The original application was passed on 20 dwellings, we now have a new application increasing this to 41 dwellings. Our original concerns for the traffic issues leading to this development when only 20 dwellings were agreed are once again a key concern. Church Road is a busy village street and not designed to accommodate larger developments such as the 41 dwellings now planned. The junction joining Church Road with Colchester Road is major concern to us, especially as two other developments on School Road (62 dwellings and 50 dwellings) that join this junction, will add further traffic to the crossroads. We strongly request that Highways review this crossroad and the Church Road future traffic issues.

Elmstead Parish Council has concerns on the new design being an over-development of the size of land. 41 dwellings on such a small area offers an over-populated area of land for new home owners with limited open-space to support.

Elmstead Parish Council acknowledges that Essex Education department have highlighted a deficiency in places available at our local primary school from 2020. We wish to highlight that the additional 21 dwellings planned, will further stretch the local resources resulting in increased traffic to allow the residents to attend other schools in the County.

Elmstead Parish Council has read the Assessment of Economic Viability that has been submitted. We recognise that the Parish Council would need to take independent specialist advice to review this report to make any comments. The deadline for our comments doesn't allow us to gain such advice and we are keen to read the comments Tendring District Council have on this assessment. However, we would like to point out that the development was purchased, fully understanding the cost of the land and the S106 arrangements for, a Community Hall or donation of £400,000, the £90,000 for the sports field and the allotments contribution at the time of the purchase. It seems that the land was bought with no intention of providing these agreed provisions and justification has now been sought for increasing the dwellings and taking away the sports field.

5.2 20 letters of objection have been received outlining the following objections;

- No footpath along this section of Church Road creating safety issues for pedestrians.
- Church Road/Colchester Road junction is unsafe.
- Local school/health care over-subscribed.
- Safety risks at boundary with the Cricket Club from stray balls.
- Large increase in traffic along Church Road.

- Removal of community facilities at expense of the village.
- Extra houses are not needed.

6. **Assessment**

Site Context

- 6.1 The application site is broadly rectangular in shape and is undeveloped agricultural land situated to the west of Church Road. The site is part of a single agricultural field with an existing field access on to Church Road. The site measures approximately 260 metres by 150 metres, and equates to approx. 3.24 hectares.
- 6.2 The site's southern and western boundaries are bordered in part by a mature hedgerow. Part of the southern boundary is formed by a brick wall which contains the curtilage of The Vicarage, with the remainder formed by several mature trees which are afforded protection. The northern boundary of the site is open forming part of the wider agricultural field beyond. The eastern boundary of the site is open to views from Church Road.
- 6.3 Church Road itself is 30 mph, and is a local link road off the Colchester/Clacton Road crossroad junction. Church Road serves predominantly detached, mostly two-storey dwellings and bungalows along its length.
- 6.4 A relatively recent development called Church Gardens which contains 6 two-storey dwellings is located off Church Road to the east of the application site (06/00760/FUL refers). Also to the east of the site is a bungalow named 55 Fritton. The Vicarage, a 2-storey dwelling is located to the south-east of the site adjoining the southern boundary.
- 6.5 Church Road also provides access to Holly Way. Beyond the application site to the north, Church Road serves a handful of other properties together with the St Anne and St Lawrence Parish Church.
- 6.6 To the south the site borders Elmstead Cricket Ground and adjoining grassed amenity area. To the west the site borders Elmstead Primary School and its associated playing field. Also located adjacent to the south-west boundary of the site is a car park, which it is understood is controlled by the Parish Council.
- 6.7 The site itself has no noticeable topographical features and has an approx. gradual 400mm fall across the land from east to west. There is a public footpath approx. 120 metres to the north of the application site which runs west to east.
- 6.8 The application site lies outside of the defined settlement development boundary of Elmstead Market as set out in the Tendring District Local Plan (2007), but within the defined settlement boundary in the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Proposal

- 6.9 The application proposes 41 no. residential units, allotments, a single access/egress onto Church Road, footpath connections to the north and to the school (west), a new public footpath along Church Road leading south, public open space and landscaped areas. The housing is provided in a mix of units and types from 2 bed to 4 bed, the actual mix is as follows:
- 2 no. x 2 bed bungalows
 - 6 no. x 2 bed semi-detached
 - 4 no. x 3 bed semi-detached

- 13 no. x 3 bed detached houses
- 16 no. x 4 bed detached house

6.10 With the site extending to 3.24 ha, the density of the scheme is 13 dwellings per hectare (dph).

Principle of Development

6.11 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a significant material consideration in this regard.

6.12 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 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.

6.13 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.

6.14 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.

6.15 The application site is not allocated for development in the adopted Local Plan and it lies outside (albeit adjacent to) the 'settlement development boundary' for Elmstead Market. In the emerging Local Plan it is however included within the settlement development boundary. In applying the guidance within paragraph 48 of the NPPF, the Local Plan has reached a relatively advanced stage of the plan-making process and Officers are of the view that the proposal is in line with the policies in the NPPF to boost the supply of housing and achieve a balance between economic, social and environmental factors. On this assessment, the allocation of the site for development can carry a reasonable level of weight in the determination of this planning application.

6.16 Furthermore, the Council's relies on some of the sites allocated for development in the emerging Local Plan obtaining planning permission in the short-term, in order for them to start delivering new homes from the middle part of the plan period. In addition, the site benefits from a previous outline planning permission (14/01292/OUT) for the erection of up to 20 dwellings and therefore it is considered that the principle of residential development on this site is acceptable.

Design/Layout

- 6.17 Paragraph 124 of the NPPF states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.
- 6.18 The proposed development has increased to 41 properties since the original scheme for was 20 dwellings was approved, however at an average net density of 13 dwellings per hectare (dph) and with private rear gardens meeting or exceeding the standards set out within the Essex Design Guide it would not give rise to an over-development of the site. Furthermore due to the minimum building to building distance of over 25m between the proposed development and the nearest existing property, it is considered that the scheme would not over-dominate its built context. The development also provides open space comprising of 16% of the total site area which exceeds the 10% threshold required by the relevant local plan policy.
- 6.19 With a mixed character of property type and style in the vicinity, and with the design of the proposal taking some cues from the Essex Design Guide, Officers consider that the scheme would respond positively to local character, provide buildings that exhibit individual architectural quality and house-types with well-defined public and private spaces. The use of varied materials including facing brick, weatherboarding, smooth render, slate and plain tiles along with brickwork detailing and a range of differing window styles assists in providing the development with a sense of identity.
- 6.20 The public realm through additional landscaping, street furniture and other distinctive features would also assist in creating a sense of place, and provide streets and spaces that are overlooked and active, promoting natural surveillance and inclusive access, as well as including parking facilities that are well integrated as part of the overall design.
- 6.21 Overall it is considered that the scale, layout, density, height and massing of buildings and overall elevation design would harmonise with the character and appearance of the surrounding area.

Landscape Impact/Trees

- 6.22 The site is currently in agricultural use and has no trees or other vegetation in the main body of the land. There are a number of trees and established hedgerows situated on, or close to, the site boundaries. These are adjacent to the primary school to the west, the public open space to the south and the Cricket Ground also to the south.
- 6.23 The trees on the boundary with the Cricket Ground are protected by Tendring District Council Tree Preservation Order TPO/92/14 Cricket Ground, Church Road, Elmstead Market.
- 6.24 In order to show the potential impact of the development proposal on the protected trees and other trees on or adjacent to site boundaries the applicant has submitted a Tree Survey and Report. The report has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction: Recommendations.
- 6.25 With regard to the above the Council's Landscape and Tree Officer was consulted. The Officer commented that it has been demonstrated that the development proposal could be developed without harm being caused to the protected trees on the boundary with the

cricket ground. A condition securing an Arboricultural Method Statement and Tree Protection Plan to show how the retained trees will be physically protected for the construction phase of any development will be secured through condition.

- 6.26 In terms of soft landscaping the proposed site plan ref. 17/28/03 Rev F shows indicative soft landscaping proposals. The indicative layout drawing provides for a landscaped buffer zone to the open northern boundary, and it would be essential that this boundary is provided with a structural landscape scheme to aid the transition from development into countryside.
- 6.27 As such the enhancement of the public realm and planting on the northern boundary to provide a soft edge to the development will be key elements of the soft landscaping of the site.
- 6.28 As a result, it is considered the proposals would not have a significant adverse impact on the character and appearance of the area, or any protected trees.

Highway Safety/Parking

- 6.29 Where concerning the promotion of sustainable transport, the NPPF in para. 103 states that the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
- 6.30 Paragraph 102 of the NPPF requires Councils, when making decisions should ensure:
- a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.31 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The application site is within walking distance of the convenience store, the primary school and bus stops with services to and from Clacton, Colchester and beyond. The installation of a new pedestrian footpath running from the application site southwards along Church Road in conjunction with a new footpath/cycle link to Elmcroft to the west will assist in improving pedestrian accessibility to local services/facilities. As such for a rural location, the site offers a reasonable level of accessibility which is reflected in Elmstead Market's categorisation as a Rural Service Centre in the emerging Local Plan.
- 6.32 Policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP1 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.
- 6.33 It is acknowledged that some local residents have objected to the proposal with concerns about the development's impact on Church Road, general road safety and road capacities in the village. Essex County Council, in its capacity as the Local Highways Authority, has considered the proposal and concluded that it would be acceptable from a highways perspective subject to a number of conditions, the subject of which as highlighted within the summary of their response are included at the head of this report.

- 6.34 The Council's adopted parking standards state that a minimum of 1 space per dwelling should be provided for 1 bedroom dwellings and a minimum of 2 spaces per dwelling should be provided for 2 and more bedroom dwellings. Also 0.25 space per dwelling is required for visitor parking. Parking spaces should measure 5.5 metres by 2.9 metres and garages (to be counted towards parking provision) should measure 7 metres by 3 metres. The proposed development has been laid out in a manner that adheres to these standards and pays regard to the need to plan for sustainable access for all.
- 6.35 The transport impacts of the development are not considered to be severe and, from this perspective, refusal of planning permission on such grounds would not be justified, particularly bearing in mind the presence of the previous planning permission for up to 20 dwellings and associated community facilities. Therefore it is considered that the proposal, during either the construction or operational phases would not have a detrimental effect upon the highway network or the general accessibility of the surrounding area with sustainable mitigation measures proposed and to be secured by the appropriate means.

Biodiversity

- 6.36 An Ecological Survey Report has been submitted with the application. The report concludes the following;
- There are not considered to be any significant adverse impacts on existing habitat and botanical interest if the site is developed.
 - The risk of Great Crested Newts being present on site is considered low as there are no records for the site or immediate area with no ponds located close to the site.
 - The risk of amphibians being killed or injured during any construction work is considered low but standard best practice site clearance methods should be used to minimise this.
 - Bats will use the boundary habitats and areas of trees for foraging and commuting. If the hedgerows and trees are unaffected by any development, then there is not considered to be any significant impact on this group. Two short sections of hedgerow will require removal to create an access to the proposed allotments from the school and a pedestrian access to the site. As common farmland species such as pipistrelles will readily fly across gaps in hedgerows and across open ground, no significant impacts will occur due to their loss. Use of lighting on buildings needs to be positioned to avoid illumination of retained habitats such as boundary hedgerows or trees.
 - As two short sections of existing hedgerow require removal to create accesses to the allotments from the school and a pedestrian access to the proposed new village hall from Elmcroft, vegetation clearance should ideally be undertaken outside of the nesting season (March to August inclusive).
 - The predicted adverse impacts of the development on biodiversity are considered to be low.
- 6.37 Conversely there are a range of enhancements that could be incorporated into the design of the scheme that could deliver significant biodiversity benefits including the installation of bat/bird boxes, implementation of a native species soft landscaping scheme and the use compost heaps within the proposed allotments.
- 6.38 Furthermore, to maximise the ecological value of new landscaping, plants should be native, and wildflower meadows should be provided in areas of public open space. In addition, it is considered that an ecological management scheme and mitigation plan is sought and secured by condition, to ensure the proposed development follows appropriate impact avoidance precautionary measures, such as minimising the use of external lighting, and any scrub and tree removal is undertaken outside the bird nesting season.

- 6.39 Legal advice has been sought to confirm that Tendring District Council should now seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment (HRA) has been carried out to confirm that the mitigation will be the RAMS 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 Site (Colne Estuary SPA and Ramsar).
- 6.40 Therefore, in conclusion on this issue, it is considered that the proposal would not give rise to significant adverse effects upon ecology and nature conservation subject to the mitigation measures proposed which could be secured through the imposition of appropriate conditions.

Impact on Residential Amenity

- 6.41 Paragraph 117 of the NPPF states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 6.42 With regard to privacy, the Essex Design Guide (EDG) 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". It goes on to state that "where new development backs on to the rear of existing housings, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses may not encroach any closer than 15 metres to an existing rear boundary, even though with a closer encroachment 25 metres between the backs of houses would still be achieved".
- 6.43 The distances between the new dwellings and the nearest garden boundaries of existing dwellings meets these standards. Therefore, the proposals would ensure that the living conditions of existing and future residents would be protected from overlooking, a loss of outlook and daylight/sunlight.
- 6.44 Furthermore, the submission indicates how landscaping would be retained and enhanced within the application site, so as to further mitigate the effects of the development. Additionally a number of objections from local residents have been received in respect of the health and safety risks associated with being sited in close proximity to the existing cricket club to the south of the site. In response to this the applicant has confirmed that they are willing to erect safety netting on the inside of the southern boundary of the site, details of which are secured via condition.
- 6.45 Officers consider that the detailed layout has been designed in a manner which achieves an appropriate relationship with the existing dwellings whilst being sympathetic to the character of the surrounding area and the wider landscape. All in all it is considered that the above measures would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts.

Drainage

- 6.46 Part 14 of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. Inappropriate development in areas at risk of flooding should be avoided.

- 6.47 The site is currently greenfield land and is located within Flood Zone 1, it is therefore at low risk from tidal/fluvial flooding. Construction would also be managed and controlled to ensure no contamination of groundwater is caused during the construction phase.
- 6.48 Anglian Water state that the foul drainage from this development is in the catchment of Thorrington Water Recycling Centre that will have available capacity for these flows. However, as it stands the development would lead to an unacceptable risk of flooding downstream, therefore a drainage strategy would need to be prepared in consultation with them to determine mitigation measures. They request that a condition requiring the drainage strategy covering the issue is imposed.
- 6.49 In relation to surface water disposal, the discharge of future surface water runoff from the site will not be increased because of the redevelopment as it will be controlled as a result by attenuating and slowing the rate at which it infiltrates the ground with permeable paving, cellular soakaways and an infiltration basin. Essex County Council SUDs Team has reviewed the submitted information and have no objections subject to the conditions contained within their comments which are outlined at section 8.2 of this report.

Section 106 of the Town and Country Planning Act 1990 and Viability Matters

- 6.50 The 2016 permission proposed up to 20 dwellings, a community hall, open space, including land for a sports field and allotments. The community hall, open space and allotments were all bound within a s106 Agreement to be delivered within the eventual development. In the case of the Community Hall a budget was set within the Agreement of £400,000.
- 6.51 The s106 Agreement did not make provision for affordable housing to be provided, unless the community hall was not provided, or the development did not commence on the site within 3 years. In those circumstances, the developer was obliged to pay £400,000 towards affordable housing provision, in lieu of the community hall and if no development commenced within 3 years, a viability assessment was required to determine the precise level of affordable housing contribution required.
- 6.52 Following the 2016 approval a further housing development at Charity Field, Elmstead Market was allowed on appeal which also made provision for a new community hall, allotments and public open space. Therefore, following the Charity Field approval the applicant approached the Parish Council to ascertain which location would be preferable for the new community hall. Consequently, the Parish Council formed a sub-committee which advised the applicant that the Charity Field site would be the preferred option and as a result the Charity Field applicant advised that it would be their intention to develop a new community hall as part of their development alongside an area of open space.
- 6.53 In view of the above it is the applicant's intention to include a financial contribution of £400,000 to assist in the delivery of a fully functioning community hall on the Charity Field site. Provision is also made on site for 0.18ha of allotments which in a settlement that does not have any at the current time is to be supported.
- 6.54 In view of the applicant's commitment to contribute £400,000 towards the new community hall a viability assessment has been provided to demonstrate that the development cannot achieve the full 30% affordable housing provision along with the full quota of s106 contributions towards education and open space improvements.
- 6.55 The applicant's viability assessment has been carefully considered by the Council's consultants (VOA) who have provided the following conclusions;

I am of the opinion that the proposed scheme with financial s106 contributions of £572,307 shows an RLV of £569,498. This is lower than my adopted BLV and therefore indicates that

a scheme on this basis would not be financially viable unless cost savings were made and/or profit expectations were lowered.

In these circumstances I have carried out some sensitivity analysis to establish the amount of on-site affordable housing that I consider would be financially viable on site. I conclude that the provision of 20% (8 units) on-site affordable housing is financially viable.

- 6.56 Consequently, the VOA conclude that the development can achieve a slightly reduced affordable housing provision of 20% (8 units) as opposed to 30% (12 units) alongside a figure of £572,307 towards the requested financial contributions. This is based on a blended profit margin of 15.48%.
- 6.57 Officers have reviewed the information and, on the basis of the conclusions of the VOA the following contributions are included as part of the Officer recommendation;
- 20% affordable housing (8 units)
 - Education contribution of £172,307
 - Community Hall contribution of £400,000
 - RAMS figure of £122.30p per dwelling.
- 6.58 Having regarded the significant sum being provided towards the new community hall, Officers are content that the contributions listed above strike an appropriate balance towards local infrastructure improvements and on-site affordable housing provision.
- 6.59 The requirement for an open space contribution has been re-directed towards the new community hall project. This is considered to be acceptable given that the site provides open space at a policy compliant standard in conjunction with new allotment pitches.

7. Conclusion

- 7.1 The proposal for 41 properties is considered to represent sustainable development, on the edge of a Rural Service Centre, and on a site previously benefiting from planning permission for residential development.
- 7.2 Subject to completion of the S106 legal agreement to secure local infrastructure improvements and the provision of affordable housing 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 and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Affordable Housing Provision	8 dwellings (20%)
Education contribution	£172,307
Financial contribution towards RAMS.	£122.30p per dwelling
Proposed Community Hall	£400,000

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. No above ground works shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - The development is publicly visible and therefore sympathetic materials are a visually essential requirement.

3. No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which 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 - In the interest of visual amenity and the character of the area.

4. 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 interest of visual amenity and the character of the area.

5. No above ground works shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and agreed in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the first occupation of the approved dwelling and shall be retained thereafter in the approved form.

Reason - In the interests of visual and residential amenity.

6. Prior to the first occupation of the development, the proposed road junction at its bell mouth junction with Church Road shall be constructed at right angles to the highway boundary and to the existing carriageway as previously approved and shown on, drawing no. J62 1/ 09 to a carriageway width of 5.5 metres with 2 metre width footways on both sides on both sides of the junction.

Reason - To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety.

7. Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in accord with Drawing numbers:

- X571-PL-SK-002 Rev P02 - Internal Road Layout Swept Path Analysis.
- 17/28/03 Rev F - Proposed Site Plan

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

8. Prior to the commencement of 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.

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

9. Prior to first occupation of the site the provision of the following is required:

A footway as per CCE Drawing X571-PL-SK-003 Rev P04 (Proposed Site Access) associated drop kerbs and tactile paving to the specifications of the Highway Authority.

Reason - To make adequate provision within the highway for the additional pedestrian traffic generated within the highway as a result of the proposed development and to provide a link with the existing footway within Church Road.

10. 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.

11. No phase of development shall commence until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority for that particular phase. The statement shall include:

- i) the parking of vehicles of site operatives and visitors;
- ii) the loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) details of noise, dust, emission and lighting control measures;
- v) wheel and under-body washing facilities; and
- vi) hours of construction.

The development shall be carried out in accordance with the statement so approved.

Reason - To ensure that the development takes place in a satisfactory manner with regard to its impact on amenity and highways in the local area.

12. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Extended Phase 1 Ecological Assessment and Phase 2 Surveys (Phillips Ecology, October 2019), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.”

Reason - To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

13. Prior to any works above slab level being commenced a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.”

Reason - To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

14. Prior to first occupation a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason - To allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

15. 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:
- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure. This testing should be located at all locations of proposed infiltration.
 - Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
 - Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 100 year event plus 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.
 - 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.

16. 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 should clearly show how surface water will be managed and discharged during construction. 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.

17. 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. If features are to be maintained by homeowners, they should be given clear instructions on what needs doing, how it is to be done, and they can have maintenance done on their behalf by a maintenance company.

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.

18. 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.

19. Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority.

Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

Reason - To prevent environmental and amenity problems arising from flooding.

20. Prior to the commencement of the development details of the safety netting to be providing along the southern boundary of the site shall be submitted to and approved, in writing, by the Local Planning Authority. The approved safety netting shall be erected prior to the first occupation of the development and retained as approved thereafter.

Reason – In the interests of health and safety due to the presence of a cricket pitch to the south of the site.

21. Each dwelling with on-plot garage parking shall be provided with a vehicle charging point. The charging point shall be provided prior to occupation of each such dwelling.

Reason - To enhance the sustainability of the proposed development.

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

- 17/28/13/B
- 17/28/03/F
- X571-PL-SK-002 P01
- X571-PL-SK-002 P02
- 17/28/06
- 17/28/07
- 17/28/08
- 17/28/09
- 17/28/10
- 17/28/11
- 17/28/04

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

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.

Highway Informative

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.

Prior to the commencement of any work on the site a joint inspection of the route to be used by construction vehicles should be carried out by the applicant and the Highway Authority, to include photographic evidence. The route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard

and at no cost to the Highway Authority. The Highway Authority may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access by vehicles servicing the application site.

The construction vehicle route to the site should be clearly signed and a strict regime of wheel washing and street cleaning should be in place.

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.

S106 Informative

The applicant is reminded that this permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 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.

10. Background Papers

None.

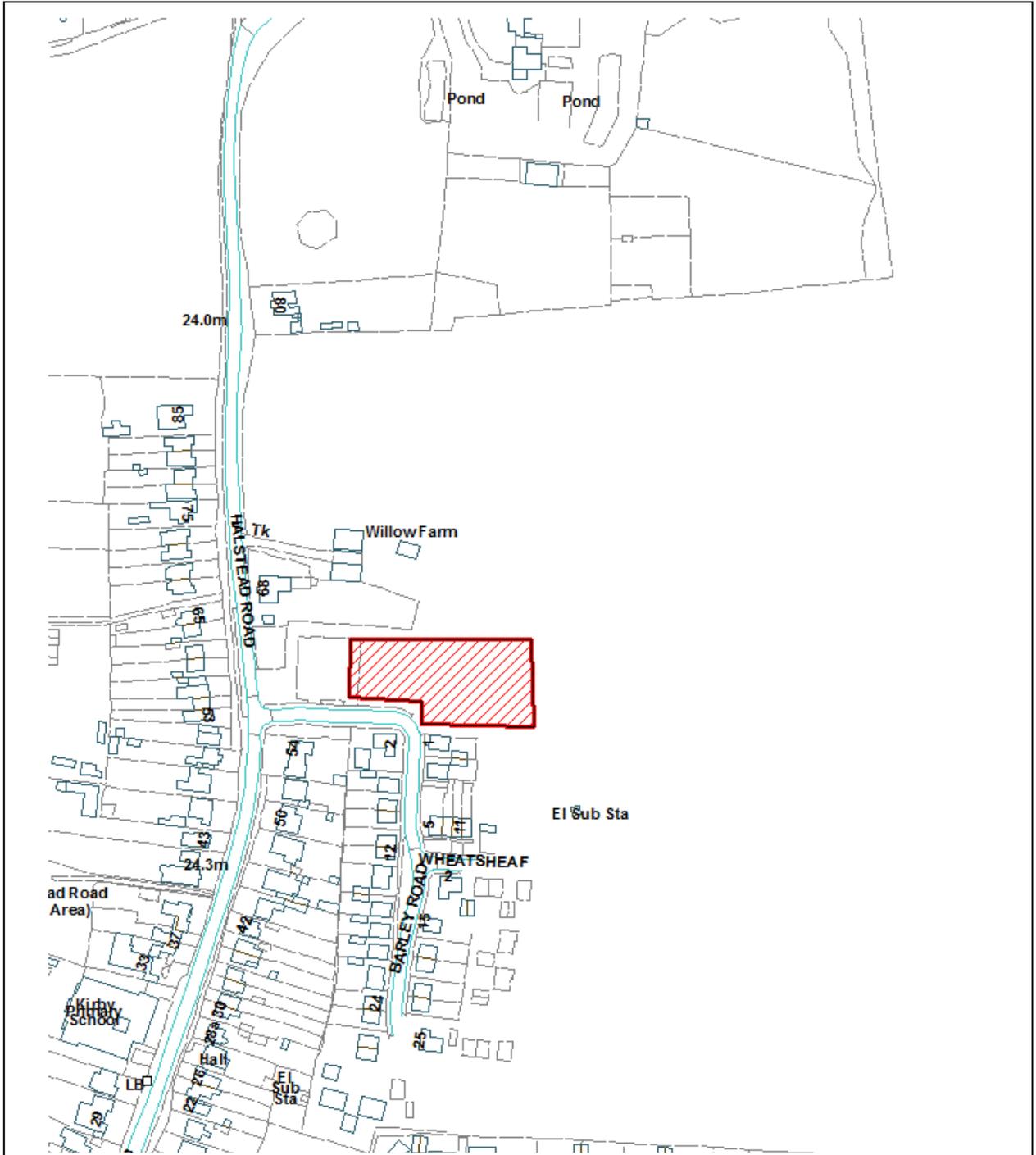
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PLANNING COMMITTEE

14 January 2020

REPORT OF THE HEAD OF PLANNING

A.3 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 CO13 0LR	
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 from 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 swales 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 The land subject of this application 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 applicant has provided evidence that there is no interest in the provision of a care home and it has similarly been confirmed by NHS England that they are not in a position to agree to the land option for a healthcare facility on the site and would prefer to receive the alternative financial contribution (£389.67 per dwelling) secured through the S106 Agreement attached to the site-wide outline planning permission to support improvements to existing local medical facilities.
- 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 secure the contributions towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS); open space enhancements; and the delivery of the affordable housing units.

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

- 2.1 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.
- 2.2 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.
- 2.3 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.

2.4 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**

15/01234/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 other related infrastructure and services provision.	Refused Appeal Allowed	07.12.2015 06.09.2016
17/01895/DETAIL	Phase 1 reserved matters application (49 units) for details of	Approved	07.03.2018

	the appearance, landscaping, layout and scale.		
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 & footways) and 11 (planning out crime) of 17/01895/DETAIL, in relation to Phase 1 only.	Approved	18.03.2019

4. Consultations

NHS East Essex CCG The CCG are not in a position to agree to the land option for a healthcare facility. 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.

On this occasion, they 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 S106 signed agreement which is secured and it is noted that part payment of the Agreement is available to spend now.

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

No Comments.

Natural England

It has been identified that this development falls within the ‘Zone of Influence’ (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). In the context of your duty as competent authority under the provisions of the Habitats Regulations, 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.

ECC SUDS

No objection to the Amended Drainage Strategy Report, however advise that the site should be subject to the drainage conditions imposed in the wider drainage strategy.

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;
- size of parking spaces and garages and provision of cycle
- parking in accordance with the Essex Parking Standards.

5. Representations

5.1 63 letters of objection and a petition containing 213 signatures have 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.

5.2 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 a parcel of land measuring 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 down from 15 during the life of the application) 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/c101a 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/sk2a 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/c102a Amended coloured street scenes
27 Jun 2019	Other	Amended landscape drawing issue sheet
20 Sep 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	Lin22259-11a Amended landscape proposals
20 Sep 2019	Report	Amended Drainage Strategy Report
16 Apr 2019	Report	Amended Habitat Regulation Assessment

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 emerging Settlement Development Boundary contained in the Tendring District Local Plan (2013-2033) and Beyond Publication Draft.
- 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 their provision as they were not primary considerations in the proposal being acceptable. It should also be borne in mind that the provisions of the S106 Legal Agreement are worded such that if the medical facility is not built then the developer is required to pay a healthcare contribution of £389.67 per dwelling, payable to NHS England.
- 6.13 The Clinical Commissioning Group (CCG) has been consulted on the proposal and has advised 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. On this occasion, the CCG believe that the best route forward would not be to agree to an offer of land, rather they would prefer to receive the financial contribution secured through the S106 Agreement attached to the site-wide outline planning permission to support improvements to existing local medical facilities.
- 6.14 In terms of the alternative/additional use of this site for a care home, the applicant has provided evidence of attempts to market the site for C2 care home uses but this has not generated positive interest.

- 6.15 In view of the above, and given that the need to provide housing - both market and affordable housing – in the district continues to be important, officers raise no objection to the proposals on Policy grounds.

Affordable Housing & wider housing mix

- 6.16 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.
- 6.17 This scheme site outside the parameters of the above agreement as it did not form part of the site given over for the approved 240 dwellings; as such as this forms a standalone full application it is reasonable to seek a policy compliant affordable housing component to the proposal and the applicant has agreed to the provision of 4 affordable homes (35%), comprising 2 two-bedroom and 2 three-bedroom houses to be secured as part of the S106 Agreement.
- 6.18 The overall Housing Mix will be as follows:
- 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

Design and Appearance

- 6.19 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.
- 6.20 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

- 6.21 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.
- 6.22 While the location of boundary treatments has been provided no details of the type, height and design have been. However, this is a matter that can reasonably be controlled by way of a planning condition.

Layout

- 6.23 Each of the proposed dwellings, have their own private amenity space. Policy HG9 of the Saved Local Plan requires 50sqm for 1 bedroom dwellings; 75sqm for 2 bedroom dwellings and 100sqm for dwellings with 3 or more bedrooms. For flats, the policy sets out a requirement for either: a minimum of 25sqm per flat provided communally; or a minimum of 50sqm private garden area for a ground floor flat or maisonette and a minimum balcony area of 5sqm for units above. All the dwellings are provided with garden areas which meet or exceed these standards.
- 6.24 All of the proposed dwellings address the street and create an active street frontage.
- 6.25 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.
- 6.26 In conclusion there is no objection to the layout of the proposed development.

Scale

- 6.27 Conditions imposed on the outline consent restrict 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

- 6.28 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.
- 6.29 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.
- 6.30 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.
- 6.31 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.

- 6.32 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

- 6.33 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'.
- 6.34 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.
- 6.35 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.
- 6.36 The relationship between the proposed dwellings is also considered acceptable with adequate separation to provide good standards of privacy and light.

Financial Contribution – RAMS

- 6.37 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.
- 6.38 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.
- 6.39 A unilateral undertaking (or in this case a S106 Agreement) can secure this legal obligation 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

- 6.40 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.

- 6.41 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.
- 6.42 The Council's 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.
- 6.43 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.
- 6.44 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.
- 6.45 A contribution is therefore sought of £11,830 for the 2 bed units and £13,518 for the 3 bed units.

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

As established through the granting of outline application 15/01234/OUT at appeal, the principle of residential development on this site is acceptable.

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.

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 Drawing Nos:

P121 b Amended illustrative street scenes,

P114 b Amended hardwick-mountford semi-detached proposed elevations,

P113 b Amended hardwick-mountford semi-detached - proposed floor plans,

P109 b Amended hardwick semi-detached - proposed elevations,

P106 b Amended refuse strategy layout,

P102 b Amended proposed block plan,

P101 g Amended proposed site layout plan,

18284/c101a Amended coloured site layout plan,

Amended schedule of accommodation,

Amended drawing issue sheet,

Amended soft landscape management and maintenance plan,

Lhe132/sk2a Amended fire and refuse tracking,

P107 b Amended garden size layout,

P104 b Amended boundary materials layout,

18284/c102a Amended coloured street scenes,

Amended landscape drawing issue sheet.

Amended Planning statement,

P103 b Amended building materials layout,

Amended design and access statement,

P105 b Amended surface materials layout,

Lin22259-11a Amended landscape proposals,

Amended Habitat Regulation Assessment,

Amended Drainage Strategy Report,

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 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.

- 4) 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.

- 5) 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.

- 6) 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.

- 7) 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) No development shall commence until details of a surface water drainage works shall have been submitted to and approved in writing by the local planning authority. The details shall accord with the principles contained in the Updated Flood Risk and Drainage Strategy (October 2015) and the Amended Drainage Strategy Report (September 2019). The submitted details shall: a. measures to minimise the risk of flooding during the construction works; b. provide information about the design storm period and intensity, the method employed to delay and

control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; c. include a timetable for its implementation; and, d. provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. No building shall be occupied until the works have been implemented in accordance with the approved details.

- 9) No development shall take place before an Environmental Construction Management Plan for the construction of the development hereby approved has been submitted to, and approved in writing, by the Local Planning Authority. Works shall be carried out in accordance with the approved method statement. Details submitted in respect of the method statement, incorporated on a plan, shall provide for wheel cleaning facilities during the excavation, site preparation and construction stages of the development to prevent the deposition of mud or other debris onto the highway network/public areas. The method statement shall also include details of safe access to/from the site, the parking and turning of vehicles of site operatives and visitors, loading and unloading of plant and materials, delivery and construction working hours, dust suppression strategy, routing of delivery vehicles, measures to control noise and lighting, the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials, means of safeguarding the public right of way during construction, the erection and maintenance of security hoarding, a scheme for recycling/disposing of waste resulting from construction, and temporary traffic management/signage.

Reason - To ensure that development is carried out in a controlled manner in the interests of highway safety, while minimising impacts on the surrounding residential properties and the natural environment.

- 10) Prior to the commencement of any piling works which may be necessary, a full method statement - to include a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents – shall be submitted to and agreed in writing by the Local Planning Authority. Piling Works shall be carried out in accordance with the approved method statement.

Reason - To ensure that development is carried out in a controlled manner in the interests of highway safety, while minimising impacts on the surrounding residential properties and the natural environment

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 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

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.

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.

10. **Background Papers**

Marketing/Correspondence Care Home/Medical Facility.

Leanne Nicholas

From: Robert Church (Linden Homes) [REDACTED]
Sent: 12 September 2018 11:52
To: Tim Walker (Linden Homes)
Cc: John Baines (Linden Homes)
Subject: FW: Carehome land requirements

fyi

Robert Church BSc (Hons) MRICS
Managing Director
[REDACTED]
[REDACTED]

Linden Homes Eastern
Eastwood House
Glebe Road
Chelmsford
Essex CM1 1RS
www.lindenhomes.co.uk



From: Robert Church (Linden Homes)
Sent: 05 July 2017 17:23
To: 'Grant Aitken' [REDACTED]
Subject: RE: Carehome land requirements

Hi Grant, postcode is CO13 0LR.

Robert

From: Grant Aitken [REDACTED]
Sent: 05 July 2017 17:14
To: Robert Church (Linden Homes) [REDACTED]
Subject: Re: Carehome land requirements

Hi Robert

Thanks for getting back. I suspect it is just too small a town but if you send a postcode we will model it and give you feedback.

Cheers
Grant

From: "Robert Church (Linden Homes)" [REDACTED]
Date: Wednesday, 5 July 2017 13:47
To: Grant Aitken [REDACTED]
Subject: RE: Carehome land requirements

Grant,

We have a site in Kirby Cross (Tendring DC, Essex) with consent for care home use – would this location be of interest?

Regards

Robert

From: Grant Aitken [REDACTED]
Sent: 05 July 2017 13:39
To: Grant Aitken <[REDACTED]>
Subject: Carehome land requirements

Good afternoon

Please find attached information relating to our requirement for high quality sites for carehome development, including a list of priority towns (not exhaustive, other locations will be considered on merit).

We are particularly keen to explore engagement with prominent housebuilders with a view to becoming involved as early as possible in the masterplan stage for large housing-led projects. CareUK is one of the best funded and largest providers of dementia and old age care in the UK. Their developments are built in a variety of styles to fit in with masterplan architectural requirements and are constructed to a very high standard, commensurate with their market leading position in providing top-end care.

Land values are attractive, we pride ourselves on being straightforward to deal with and CareUK has a very strong and well-funded growth pipeline.

I look forward to hearing from you and discussing any potential opportunities in due course. Please feel free to circulate to any colleagues who might also be interested in proposing any specific sites.

Regards,
Grant

Grant Aitken BSc MRICS
Director
[REDACTED]



amicus.co.uk

42 Brook Street | Mayfair | London | W1K 5DB | 020 7129 1465
115 George Street | Edinburgh | EH2 4JN | 0131 202 9950

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Leanne Nicholas

From: Robert Church (Linden Homes) [REDACTED]
Sent: 12 September 2018 11:58
To: Tim Walker (Linden Homes); John Baines (Linden Homes)
Subject: FW: RE: RE: LNT Care Developments - Care Home Site Requirement: Greenfield or Brownfield Sites

Robert Church BSc (Hons) MRICS
Managing Director
[REDACTED]
[REDACTED]

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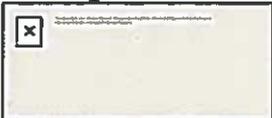


From: Chris January [REDACTED]
Sent: 14 February 2018 17:41
To: Robert Church (Linden Homes) [REDACTED]
Subject: RE: RE: RE: LNT Care Developments - Care Home Site Requirement: Greenfield or Brownfield Sites

I am afraid Kirby Cross is a no for LNT

On Halstead they are interested and had spoken to the agent selling the site but got nowhere with them, and were trying to get details to access the data room. They could do something on 1.7 acres for Extra Care but this would not throw up excessively high values

Kind regards



Chris January
Partner, Retail and Leisure

25 Old Burlington Street, London. W1S 3AN
[REDACTED] bidwells.co.uk



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Before you print, please think of the environment.

Leanne Nicholas

From: Robert Church (Linden Homes) [REDACTED]
Sent: 12 September 2018 11:59
To: Tim Walker (Linden Homes); John Baines (Linden Homes)
Subject: FW: Care Home Land Requirement

Robert Church BSc (Hons) MRICS
Managing Director
[REDACTED]
[REDACTED]

Linden Homes Eastern
Eastwood House
Glebe Road
Chelmsford
Essex CM1 1RS
www.lindenhomes.co.uk



From: Richard Lawrence [REDACTED]
Sent: 05 March 2018 11:01
To: Robert Church (Linden Homes) [REDACTED]
Subject: RE: Care Home Land Requirement

Morning Robert,

Many thanks for these opportunity. I will have a look at the areas today and will come back with the postcodes that could be of interest.

Kind Regards,

Richard Lawrence
Regional Development Director

[REDACTED] W: www.castleoak.co.uk

Castleoak Group

Registered address: Raglan House Malthouse Avenue Cardiff Gate Business Park Cardiff CF23 8BA

From: Robert Church (Linden Homes) [REDACTED]
Sent: 28 February 2018 16:06
To: Richard Lawrence [REDACTED]
Subject: RE: Care Home Land Requirement

Hi Richard,

We have two sites at the moment.

One in Kirby Cross CO13 0LR and one in Halstead CO9 2RP.

Let me know if these areas are of interest.

Thanks

Robert

From: Richard Lawrence [REDACTED]
Sent: 27 February 2018 14:31
To: Robert Church (Linden Homes) [REDACTED]
Subject: RE: Care Home Land Requirement

Good Afternoon,

Essex maybe an area we could cover. Are you able to give me some sample locations and postcodes and I will do a couple of demographic reports on demand.

Kind Regards,

Richard Lawrence
Regional Development Director

[REDACTED] W: www.castleoak.co.uk

Castleoak Group
Registered address: Raglan House Malthouse Avenue Cardiff Gate Business Park Cardiff CF23 8BA

From: Robert Church (Linden Homes) [REDACTED]
Sent: 27 February 2018 13:51
To: Richard Lawrence [REDACTED]
Subject: RE: Care Home Land Requirement

Hi Richard, sorry but we only have opportunities in the Essex area at the moment.

Regards

Robert

From: Richard Lawrence [REDACTED]
Sent: 27 February 2018 12:06
To: Robert Church (Linden Homes) [REDACTED]
Subject: Care Home Land Requirement

Good Afternoon,

I am writing to advise that we are urgently looking for a number of 2 acre care homes sites C2 or C3 classifications, anywhere (High End Areas within the North of England) or within the M4 or M5 Corridor if possible.

I have attached a few of our requirements if you can get back to me with anything you may have, that could be of interest.

We are actively involved in all planning aspects, site acquisition all the way through to development.

Our company are happy to pay fees for the right opportunity.

Please do not hesitate to contact me if you would like to discuss any of these point in further detail.

Kind Regards,

Richard Lawrence
Regional Development Director

[REDACTED] W: www.castleoak.co.uk

Castleoak Group

Registered address: Raglan House Malthouse Avenue Cardiff Gate Business Park Cardiff CF23 8BA

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Leanne Nicholas

From: Ray Deans
Sent: 02 January 2020 11:07
To: Leanne Nicholas
Subject: FW: Land for Healthcare Facility - Land to East of Halsted Road, Kirby Cross, Essex

Leanne

The email below from the local CCG was also part of the background papers which needed redacting.

I think Sianie has this as well.

Ray

From: Hannah Short (Linden Homes) [REDACTED]
Sent: 22 November 2019 13:59
To: Ray Deans [REDACTED]
Subject: FW: Land for Healthcare Facility - Land to East of Halsted Road, Kirby Cross, Essex

Hi Ray,

Please see response below from Jane Taylor at the NHS. I trust you now have everything you need for the December Committee, however please let me know if you need any further information.

Kind regards

Hannah Short
Planning & Design Co-ordinator
[REDACTED]

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Eastwood House
Glebe Road
Chelmsford
Essex CM1 1RS
www.lindenhomes.co.uk



From: TAYLOR, Jane (NHS NORTH EAST ESSEX CCG) [REDACTED]
Sent: 22 November 2019 11:39
To: Hannah Short (Linden Homes) [REDACTED]; Tim Walker (Linden Homes) [REDACTED]
Cc: Haworth, Jon [REDACTED]; DUNN, Elizabeth (NHS NORTH EAST ESSEX CCG) [REDACTED]
Subject: RE: Land for Healthcare Facility - Land to East of Halsted Road, Kirby Cross, Essex

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Dear Hannah

Apologies for the delay in responding.

Having talked through the offer with the Director of Corporate Governance and Systems Infrastructure, 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. This is a complicated business case which would need time to work through.

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.

If you have any further queries, please do not hesitate to contact me.

Kind Regards

Jane Taylor (Nee Mower)
Estates Development Manager



North East Essex Clinical Commissioning Group
Aspen House
Stephenson Road
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My current list of medications was available
thanks to my care record
www.mycarerecord.org.uk My Care Record

<http://www.mycarerecord.org.uk/>

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