



## PLANNING COMMITTEE

**DATE:** Tuesday 4 October 2016  
**TIME:** 6.00 pm  
**VENUE:** Council Chamber, Council Offices,  
Thorpe Road, Weeley, CO16 9AJ

### MEMBERSHIP:

Councillor White (Chairman)  
Councillor Heaney (Vice-Chairman)  
Councillor Baker  
Councillor Bennison  
Councillor Everett  
Councillor Fairley

Councillor Fowler  
Councillor Gray  
Councillor Hones  
Councillor Hughes  
Councillor McWilliams

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For further details and general enquiries about this meeting, contact Katie Sullivan on 01255 686585

DATE OF PUBLICATION: FRIDAY 23 SEPTEMBER 2016

## **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 Wednesday 7 September 2016.

### **3 Declarations of Interest**

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

### **4 A.1 - Planning Application - 16/00031/OUT - Turpins Farm, Elm Tree Avenue, Kirby-le-Soken, CO13 0DA (Pages 9 - 50)**

The erection of up to 210 dwellings with access from Elm Tree Avenue, including green infrastructure, children's play areas, school drop off and parking facility and other related infrastructure.

### **5 A.2 - Planning Application - 16/00546/OUT - Red Barn Farm, Red Barn Lane, Great Oakley, Harwich, CO12 5BE (Pages 51 - 62)**

Construction of 4 no. dwellings following the demolition of existing barns and outbuildings.

### **6 A.3 - Planning Application - 16/01176/DETAIL - Land adjacent to Rosedene (Plot 3), Roxburghe Road, Weeley, CO16 9DU (Pages 63 - 72)**

Reserved matters application following outline planning approval of 13/00897/OUT - Construction of two storey house on plot three.

**Date of the Next Scheduled Meeting**

*The next scheduled meeting of the Planning Committee is to be held in the Princes Theatre, Town Hall, Clacton-on-Sea, CO15 1SE at 6.00 pm on Tuesday 11 October 2016.*

## **Information for Visitors**

**FIRE EVACUATION PROCEDURE**

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON WEDNESDAY 7 SEPTEMBER 2016 AT 6.00 PM,  
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, WEELEY**

<b>Present:</b>	Councillors White (Chairman), Heaney (Vice-Chair), Baker, Bennison, Everett, Fairley, Fowler, Hones, Hughes and McWilliams
<b>Also Present:</b>	Councillors Nicholls and Coley
<b>In Attendance:</b>	Cath Bicknell (Head of Planning), Gary Guiver (Planning Manager), Charlotte Parker-Smith (Solicitor) (Property, Planning and Governance) and Katie Sullivan (Committee Services Officer)

**47. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were apologies for absence received from Councillor Gray (with no substitute).

**48. MINUTES OF THE LAST MEETING**

The minutes of the last meeting of the Committee, held on 9 August 2016, were approved as a correct record and signed by the Chairman.

**49. DECLARATIONS OF INTEREST**

Councillor Coley, present in the public gallery, declared a non-pecuniary interest in relation to Planning Application 15/01787/FUL by virtue of the fact he was a local Ward Member.

Councillor Nicholls, present in the public gallery, declared a non-pecuniary interest in relation to Planning Application 16/00782/OUT by virtue of the fact he was a local Ward Member and also a Parish Councillor for Great Bromley.

Councillor McWilliams declared a non-pecuniary interest in relation to Planning Application 16/00870/OUT by virtue of the fact she was the local Ward Member and by virtue of the fact that she was pre-determined.

Councillor Fairley declared a non-pecuniary interest in relation to Planning Application 16/00870/OUT by virtue of the fact that she was pre-determined.

Councillor Heaney, declared a non-pecuniary interest in relation to Planning Application 16/00782/OUT by virtue of the fact she was a local Ward Member.

**50. A.1 - PLANNING APPLICATION - 16/00870/OUT - LAND WEST OF HECKFORDS ROAD, GREAT BENTLEY, CO7 8RR**

Councillor McWilliams had earlier declared a non-pecuniary interest in relation to Planning Application 16/00870/OUT by virtue of the fact she was the local Ward Member and also by virtue of the fact that she was pre-determined. Councillor McWilliams therefore withdrew from the meeting, whilst the Committee considered the application and reached its decision, returning only to speak as Ward Member pursuant to the Public Speaking Scheme as outlined below.

Councillor Fairley had earlier declared a non-pecuniary interest in relation to Planning Application 16/00870/OUT by virtue of the fact that she was pre-determined. Councillor Fairley therefore withdrew from the meeting, whilst the Committee considered the application and reached its decision.

It was reported that this application was before the Committee as it was a departure from the Local Plan and it had also been referred to the Committee at the request of Councillor McWilliams, the local Ward Member.

Members recalled that this proposal was a re-submission of an earlier application which had been considered by the Committee at its meeting on 22 March 2016. That application had been deferred for further consideration and an on-site meeting with a Highway Engineer from Essex County Council, but was subsequently then refused planning permission at the Committee's meeting on 19 April 2016 because the proposed pedestrian footway from the site along Heckfords Road (providing a connection back into the village green) would have included a section measuring no more than 1.2 metres in width. The Highway Authority had had no objection, however, the Committee had been concerned that the development would have introduced an increased risk of pedestrians having to step out into the carriageway on the outside of the bend where visibility around the bend was limited. There had been a particular concern that the distance between the narrowest pinch point and the point at which it would have become visible to drivers travelling along Heckfords Road would have been well within the reasonable stopping distance for a vehicle travelling at the legal speed limit.

Members also recalled that at that meeting held on 19 April 2016, there had been another outline proposal for up to 50 dwellings on land at Admirals Farm on the opposite side of Heckfords Road. That proposal had similarly required a footway along the western side of Heckfords Road to connect with the village green, but the applicants for that scheme had submitted information to show how a large part of the footway could have been widened to 1.4 metres through the acquisition of third party land. With this additional width, the Committee had been content to grant planning permission subject to a Section 106 legal agreement and conditions.

Members were informed that the applicants for the refused scheme west of Heckfords Road had since appealed to the Secretary of State although no Inquiry dates had yet been confirmed by the Planning Inspectorate. In light of the Admirals Farm decision, the applicants had also submitted this new application, with a commitment not to occupy any of the new dwellings unless the minimum 1.4 metre width along the said section of footway (as accepted by the Committee for the neighbouring scheme) was achieved. By imposing a planning condition to require the above, the Committee's reason for refusing the earlier scheme could be addressed and the new application was therefore recommended for approval by the Officers.

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 Manager (GG) in respect of the application.

An update sheet was circulated to the Committee prior to the meeting with details of:

(1) Some observations in relation to the proposed footway connection provided by the agent for the applicant.

Peter Harry, a local resident, spoke against the application.

Pippa Drew, representing Great Bentley Parish Council, spoke against the application.

Councillor McWilliams, in her capacity as the local Ward Member, returned to the Chamber and spoke against the application. She then withdrew from the meeting again, on the grounds of pre-determination, whilst the Committee considered the application and reached its decision.

David Barnes, the agent on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, and consideration of advice provided by Officers at the meeting in regards to concerns raised, it was moved by Councillor Hughes and seconded by Councillor Bennison that the application be refused due to highways and sustainability matters, which motion on being put to the vote was declared **LOST**.

Following further discussion by the Committee, it was then moved by Councillor Hones and seconded by Councillor Fowler that the application be approved, which motion on being put to the vote was declared **LOST**.

Following further discussion by the Committee, it was then moved by Councillor Everett and seconded by Councillor Hughes that consideration of the application be deferred in order to further investigate highways matters, which motion on being put to the vote was declared **LOST**.

Following further discussion by the Committee, and consideration of further advice provided by Officers at the meeting with regards to potential risks involved with the appeals process, it was then moved again by Councillor Hones and seconded by Councillor Fowler that the application be approved, which motion on being put to the vote was declared **LOST**.

Following further discussion by the Committee, and consideration of further advice provided by Officers at the meeting with regards to potential consequences of non-determination and defending potential reasons for refusal, it was then moved by Councillor Everett, seconded by Councillor Heaney and **RESOLVED** that, contrary to the Officers' recommendation of approval, the Head of Planning (or equivalent authorised officer) be authorised to refuse planning permission for the development for the following reason:

- Pedestrian safety.

**51. A.2 - PLANNING APPLICATION - 15/01787/FUL - SITE TO SOUTH OF POUND CORNER, HARWICH ROAD, MISTLEY, CO11 2DA**

Councillor Coley, present in the public gallery, had earlier declared a non-pecuniary interest in relation to Planning Application 15/01787/FUL by virtue of the fact he was a local Ward Member.

Members recalled that this planning application had been considered by the Committee on 19 April 2016 when it had been resolved that the application be deferred to enable negotiations to take place with the applicant about the removal of, or alteration to, the proposed northern access road to/from Harwich Road.

Members were informed that an amended layout plan had been submitted on 25 July 2016 which had amended the northern access road and had made consequential changes to the layout and design of plots 1 and 2.

The Chairman reminded the Committee that only those Members who had considered the application at the meeting held on 19 April 2016 were eligible to consider and determine the application at this meeting. He then named those Members.

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 Head of Planning (CB) in respect of the application.

An update sheet was circulated to the Committee prior to the meeting with details of the relevant policies in the Tendring District Local Plan 2013-2033 and Beyond: Preferred Options Consultation Document (Published July 2016).

Following discussion by the Committee, it was moved by Councillor McWilliams, seconded by Councillor Bennison and unanimously **RESOLVED** that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to:

- a) Within six months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
  - On-site Council Housing/Affordable Housing;
  - Transfer of land for allotments and extension to playing fields;
  - New bus stop (westbound) in the vicinity of the junction with Harwich Road; and
  - New bus stop (eastbound) in the vicinity of the junction with Harwich Road.
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning in their discretion considers appropriate):-
  - (i) Conditions:
    1. Standard time limit;
    2. Development in accordance with submitted plans;
    3. Retention of existing hedges and trees;
    4. External facing and roofing materials;
    5. Works to be carried out outside bird breeding season;
    6. Screen walls/fences;
    7. Full method statement for approval by Pollution and Environmental Control;
    8. Hard and soft landscaping;



9. Landscape planting period;
10. Landscape management plan;
11. Existing and proposed site levels;
12. Construction of carriageway of estate roads;
13. All off-street parking provided in accordance with adopted standards;
14. Residential Travel Plans;
15. Removal of Permitted Development Rights for dormer windows and rooflights;
16. Driveways and parking areas constructed of porous materials, or provision made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellings;
17. Highways conditions (as recommended by the Highway Authority);
18. SUDS conditions as requested by Essex County Council;
19. Ecological mitigation as set out in Bat Activity and Reptile Survey by Geosphere Environmental dated 2 September 2015;
20. Tree protection measures; and
21. Environmental Health conditions.

- 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 six months, as the requirements necessary to make the development acceptable in planning terms have not been secured through a Section 106 planning obligation.

**52. A.3 - PLANNING APPLICATION - 16/00782/OUT - PARK 2 LAND AT BADLEY HALL FARM, BADLEY HALL ROAD, GREAT BROMLEY, CO7 7HU**

Councillor Nicholls, present in the public gallery, had earlier declared a non-pecuniary interest in relation to Planning Application 16/00782/OUT by virtue of the fact he was a local Ward Member and also a Parish Councillor for Great Bromley.

Councillor Heaney had earlier declared a non-pecuniary interest in relation to Planning Application 16/00782/OUT by virtue of the fact she was a local Ward Member.

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

At the meeting, an oral presentation was made by the Council's Planning Manager (GG) in respect of the application.

An update sheet was circulated to the Committee prior to the meeting with details of:

- (1) A correction to paragraph 1.3; and
- (2) Clarification in regards to the address.

Councillor Nicholls, a local Ward Member and a Parish Councillor for Great Bromley, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Fairley, seconded by Councillor Everett and **RESOLVED** that the Head of Planning (or equivalent authorised officer) be authorised to grant outline planning permission for the development, subject to:

- 
- a) Within six months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
- On-site Council Housing/Affordable Housing;
  - On site or off-site open space/play equipment.
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate):-
- (i) Conditions:
1. Standard conditions for submission of reserved matters and time limit for commencement;
  2. Accordance with approved plans;
  3. Highways conditions (as recommended by the Highway Authority);
  4. Ecological mitigation/enhancement plan;
  5. Surface water drainage/foul drainage scheme;
  6. SuDS maintenance/monitoring plan;
  7. Hard and soft landscaping plan/implementation;
  8. Tree protection plan;
  9. Details of lighting, materials and refuse storage/collection points;
  10. Broadband connection;
  11. Noise;
  12. Emission Control;
  13. Archaeology – Trial Trenching; and
  14. Provision of car park.
- c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of six months, as the requirements necessary to make the development acceptable in planning terms have not been secured through a Section 106 planning obligation.
- d) That the following informatives be sent to the applicant:
- Preference for traditional style.
  - Flats not favourable in rural locations.

**53. A.4 - PLANNING APPLICATION - 16/00597/FUL - LAND ADJACENT CHARTFIELD COTTAGE, CHARTFIELD DRIVE, KIRBY-LE-SOKEN, CO13 0DB**

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

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

At the meeting, an oral presentation was made by the Council's Planning Manager (GG) in respect of the application.

Following discussion by the Committee, it was moved by Councillor McWilliams, seconded by Councillor Fairley and **RESOLVED** that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following conditions:

- 1) Time Limit (3 Years);
- 2) Compliance with approved plans;
- 3) Details of materials, fencing, walls and landscaping;
- 4) Access dimensions and visibility splays;
- 5) No use of unbound materials for vehicular access;
- 6) Inclusion of vehicle turning facility;
- 7) Compliance with parking standards;
- 8) Removal of permitted development rights; and
- 9) Protection of neighbouring tree during construction phase.

The Meeting was declared closed at 8.50 pm

**Chairman**

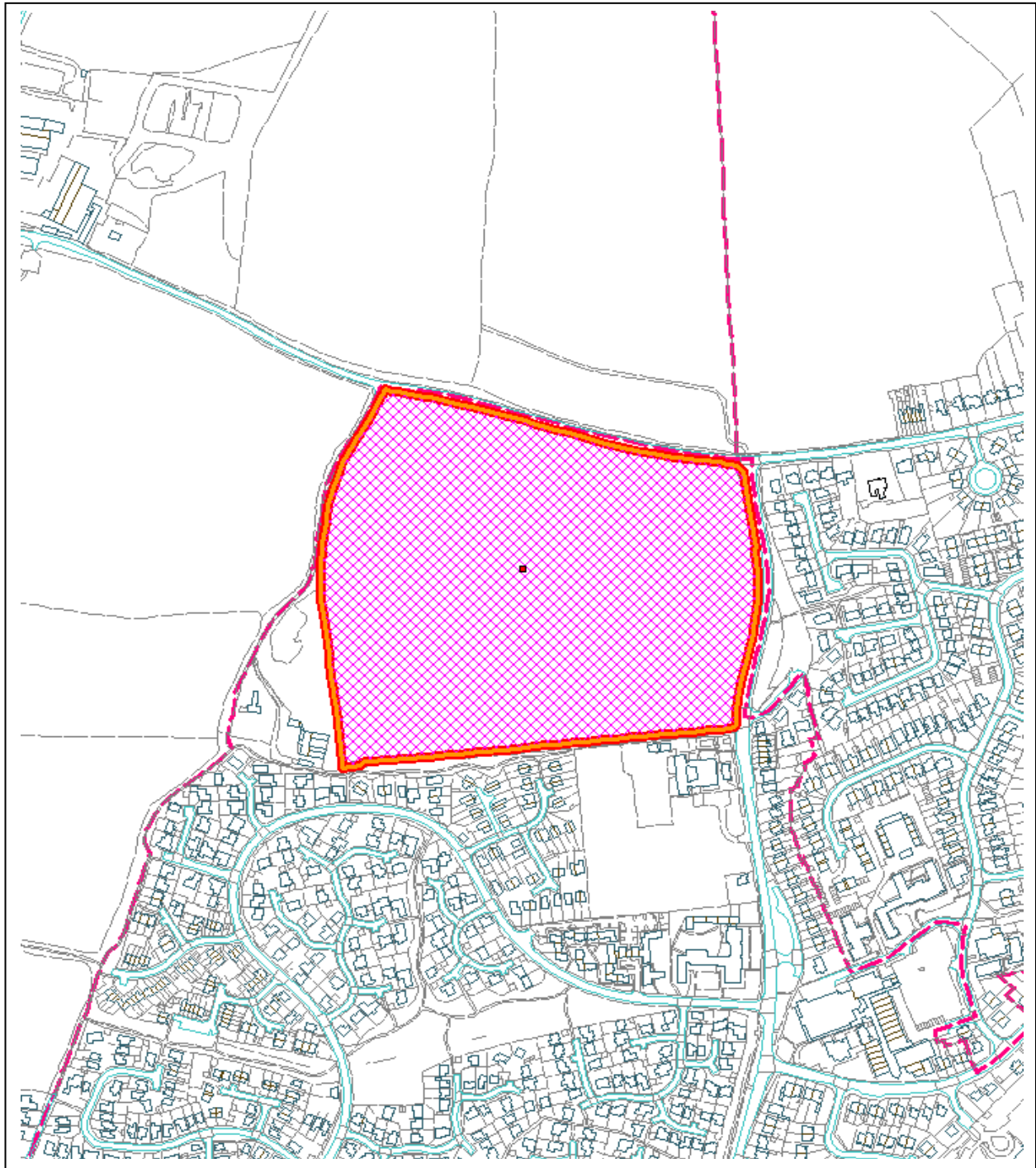
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## PLANNING COMMITTEE

4 OCTOBER 2016

### REPORT OF THE HEAD OF PLANNING

#### **A.1 PLANNING APPLICATION – 16/00031/OUT – TURPINS FARM, ELM TREE AVENUE, KIRBY LE SOKEN, CO13 0DA**



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<b>Application:</b>	16/00031/OUT	<b>Town / Parish:</b> Frinton & Walton
<b>Applicant:</b>	The Burghes Estate	
<b>Address:</b>	Turpins Farm, Elm Tree Avenue, Kirby Le Soken, CO13 0DA	
<b>Development:</b>	The erection of up to 210 dwellings with access from Elm Tree Avenue, including green infrastructure, children's play areas, school drop off and parking facility and other related infrastructure	

This application was originally submitted for a scheme of up to 250 dwellings with access from both Elm Tree Avenue and Walton Road. The application was considered by the Planning Committee on 12 July 2016 with further debate and a decision postponed until 14 July 2016 following a power cut at the previous meeting. The Committee resolved to defer consideration of the application to enable negotiations to take place with the developer, to reduce the total housing numbers and the density on the basis that the current proposal was too high and not appropriate for this site. During the public speaking and subsequent debate, concerns were also raised about the proposed access onto Walton Road relating to traffic implications for Kirby-le-Soken and the effect of the road cutting through and dividing the proposed public open space at the north of the site.

Following that meeting, the applicants have revised the description of development to reduce the total number of dwelling to up to 210 and have removed the proposed access point from Walton Road (leaving an emergency access only) and have submitted further information in support of the change including a revised layout plan, a revised transport assessment and photographic examples of the type, density and design of dwellings that could feasibly be accommodated on the site.

The application, in its amended form, is before the Committee with an officer recommendation of approval. The original report to Planning Committee from 12 July 2016 is replicated below but with necessary revisions and relevant updates shown in square brackets and in bold **[like this]**.

## 1. **Executive Summary**

- 1.1 This is an outline planning application seeking approval for the principle of up to 250 dwellings **[now revised to 'up to 210 dwellings']** on a 12 hectare parcel of agricultural greenfield land lying immediately north of the Turpin's Farm housing estate within the Hamford Ward in the Frinton and Walton Town Council area. The development would represent an extension to the Frinton, Walton and Kirby Cross urban area but the site lies a short distance from the eastern edge of the nearby village of Kirby le Soken. The proposed development will include open space and children's play areas along with a school dropping off and parking facility to serve the neighbouring Hamford Primary School.
- 1.2 The site is in a highly accessible location within a relatively short distance of schools, shops and other community facilities and with bus and rail services within easy reach. The site is not allocated for development in the Council's 2007 Local Plan and forms part of the Local

Green Gap. In the Council's 2012 draft Local Plan, the 2014 revisions to that plan and the new Local Plan proposed for consultation this summer, the site is allocated for residential development in recognition of its sustainable location and its potential to make a significant contribution to future housing supply. **[The 2012 and 2014 documents referred to above have now been superseded, in full, by the 2016 Preferred Options Consultation Document]**

- 1.3 The proposal has attracted some objections, including 24 residents and Frinton & Walton Town Council, Frinton Residents Association, the Kirby le Soken Village Preservation Society and the local TDC Ward Councillor. The main concerns relate to the impact on traffic, schools and health provision, the impact on attractive views over Hamford Water, the loss of land within a designated Local Green Gap and the number and density of dwellings proposed for the site. For some, there is no objection to the principle of development on this site, which has been established in the emerging Local Plan, but there are concerns that the number of dwellings proposed is well above what was originally envisaged for the site – to the detriment of the local area. **[The Frinton Residents Association has written to say that the revised proposal is an improvement on the original plan, but the changes could have gone further and some concerns still remain; and Frinton & Walton Town Council reaffirmed its earlier concerns about the impact of the development, whilst not against development on the site in principle].**
- 1.4 Because the Council does not have an up to date Local Plan and is currently unable to identify a five-year supply of deliverable housing sites as required by government planning policy, this application has been considered in line with the government's 'presumption in favour of sustainable development'. Although the site lies outside of the settlement development boundaries of the adopted Local Plan, to comply with government requirements Officers have needed to approach the application with a view to positively addressing, as far as possible, technical issues and other matters raised by consultees and residents.
- 1.5 Officers recognise that the development would result in the loss of an area of undeveloped and visually exposed agricultural land which lies on the edge of the coastal slopes to Hamford Water and part of the Local Green Gap. However, the emerging Local Plan recognises this sensitivity and the applicants propose open space at the north of the site to preserve, enhance and maximise views across this area. Detailed design, layout and landscaping would need to respect this sensitive location and will be judged at a later stage through reserved matters applications. A significant green gap between the development site and Kirby le Soken would still remain, in line with the emerging Local Plan. When weighed against the significant need for housing in the Tendring area, it the Officers' balanced judgement that the adverse impacts do not significantly or demonstrably outweigh the benefits.
- 1.6 Ecological impacts have been carefully considered and Officers are satisfied that the development would not result in significant recreational disturbance to habitats at the internationally important Hamford Water due to the proposed recreational areas and connections with existing green links that development would provide. The site itself is of limited value in ecological terms, but a number of measures are proposed that could significantly enhance the environment for a range of species within the locality.

- 1.7 There are no objections from Essex County Council Highways and Essex County Council as the Education Authority and NHS England have requested financial contributions towards addressing the impact of the development on local education and health services. Ecological, flood risk and archaeological impacts have been addressed to the satisfaction Officers and whilst there are objections to the proposed dwelling numbers **[which have now been reduced]**, the indicative layout submitted by the applicant demonstrates that a scheme of 250 dwellings **[now 210 dwellings]**, open space, play area and car park could be accommodated on the site in an appropriate manner.
- 1.8 In the absence of an up to date Local Plan and a five-year supply of deliverable housing sites, Officers consider that this development complies with the requirements of the National Planning Policy Framework and the recommendation is approval subject to a s106 agreement to secure affordable housing, open space, and financial contributions towards health and education.

**Recommendation: Approval**

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

- a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
- On-site Council Housing/Affordable Housing;
  - Education contribution;
  - Health contribution, and;
  - Completion and transfer of public open space and maintenance contribution.
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).
- (i) Conditions:*
1. Standard 3 year time limit for submission of reserved matters application.
  2. Standard 2 year limit for commencement of development following approval of reserved matters.
  3. Details of appearance, access, layout, scale and landscaping (the reserved matters).
  4. General conformity with the **[revised]** illustrative layout diagram.
  5. Layout and phasing plan/programme.
  6. Development to contain up to (but no more than) 250 dwellings **[revised to up to (but no more than) 210 dwellings]**.
  7. Highways conditions (as recommended by the Highway Authority).
  8. Archeologic trial trenching and assessment.
  9. Contamination survey.
  10. Ecological mitigation/enhancement plan.
  11. Foul water strategy.
  12. Surface water drainage scheme for construction and occupation phases.
  13. SuDS maintenance/monitoring plan.
  14. Hard and soft landscaping plan/implementation.
  15. Details of lighting, materials and refuse storage/collection points.



16. Broadband connection.  
17. Local employment arrangements.

- c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

## **2. Planning Policy**

### **National Planning Policy Framework (NPPF)**

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
- an economic role;
  - a social role; and
  - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

- 2.5 Paragraph 187 of the NPPF states *“Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”*.

### **Local Plan**

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

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

QL1: Spatial Strategy: Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries.

QL2: Promoting Transport Choice: Requires developments to be located and designed to avoid reliance on the use of the private car.

QL3: Minimising and Managing Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

QL9: Design of New Development: Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs: Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts: Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

QL12: Planning Obligations: States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

### HG1: Housing Provision

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

### HG3: Residential Development Within Defined Settlements

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

### HG3a: Mixed Communities

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

HG4: Affordable Housing in New Developments

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

HG6: Dwellings Size and Type

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

HG7: Residential Densities

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

HG9: Private Amenity Space

Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

COM2: Community Safety

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

COM4: New Community Facilities (including Built Sports and Recreation Facilities)

Supports the creation of new community facilities where they are acceptable in terms of accessibility to local people, impact on local character, parking and traffic and other planning considerations.

COM6: Provision of Recreational Open Space for New Residential Developments

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

COM9: Allotments

Safeguards against the loss of existing allotments.

COM21: Light Pollution

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

COM23: General Pollution

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

COM26: Contributions to Education Provision

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

COM29: Utilities

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

COM31a: Sewerage and Sewage Disposal

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

EN1: Landscape Character

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

EN2: Local Green Gaps

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

EN4: Protection of the Best and Most Versatile Agricultural Land

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

EN6: Biodiversity

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

EN6a: Protected Species

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

EN6b: Habitat Creation

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

EN11a: Protection of International Sites

Guards against development that would have an adverse impact on wildlife habitats of international importance which includes Hamford Water

EN11b: Protection of National Sites

Guards against development that would have an adverse impact on wildlife habitats of national importance such as Sites of Scientific Interest (SSSI) which again includes Hamford Water.

EN12: Design and Access Statements

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

EN13: Sustainable Drainage Systems

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

EN29: Archaeology

Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

TR1a: Development Affecting Highways

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

TR3a: Provision for Walking

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

TR4: Safeguarding and Improving Public Rights of Way

Encourages opportunities to expand the public right of way network.

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use

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

TR7: Vehicle Parking at New Development

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

*Tendring District Local Plan Proposed Submission Draft (November 2012), as amended by the Tendring District Local Plan Pre-Submission Focussed Changes (January 2014). [now superseded – see comments below]*

Relevant policies include:

SD1: Presumption in Favour of Sustainable Development

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

SD2: Urban Settlements

Identifies Frinton, Walton and Kirby Cross together as an 'Urban Settlement' and one of the district's more sustainable locations for future growth.

SD5: Managing Growth

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

SD7: Securing Facilities and Infrastructure

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

SD8: Transport and Accessibility

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

SD9: Design of New Development

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

SD10: Sustainable Construction

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

PRO2: Improving the Telecommunications Network

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

PRO3: Improving Education and Skills

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

PEO1: Housing Supply

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

PEO3: Housing Density

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

PEO4: Standards for New Housing

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

PEO5: Housing Layout in Tendring

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

PEO7: Housing Choice

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

PEO9: Family Housing

Promotes the construction of family homes within new housing developments.

PEO10: Council Housing

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

PEO19: Green Infrastructure

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

PEO20: Playing Pitches and Outdoor Sports Facilities

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

PEO22: Green Infrastructure in New Residential Developments

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

PEO23: Children's Play Areas

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

PLA1: Development and Flood Risk

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

PLA3: Water Conservation, Drainage and Sewerage

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

PLA4: Nature Conservation and Geo-Diversity

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

PLA5: The Countryside Landscape

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

FWK9: Development at Turpins Farm

Allocates the application site for a mix of residential development and public open space and requires development of the site to meet specific requirements.

[The above 2012/2014 policies have now been superseded by policies contained within the Tendring District Local Plan – 2013-2033 and beyond: Preferred Options Consultation Document which include:

**SP1: Presumption in Favour of Sustainable Development**

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

**SP4: Infrastructure and Connectivity**

Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

**SP5: Place Shaping Principles**

Requires the highest standards of built and urban design and sets out the key principles that will apply to all new developments.

**SPL1: Managing Growth**

Identifies Frinton, Walton and Kirby Cross as a 'smaller urban settlement' within a hierarchy of settlements designed to direct future growth to the most sustainable locations.

**SPL2: Settlement Development Boundaries**

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

**SPL3: Sustainable Design**

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

**HP1: Improving Health and Wellbeing**

Requires a Health Impact Assessment on all development sites deliver 50 or more dwellings and financial contributions towards new or enhanced health facilities where new housing development would result in a shortfall or worsening of health provision.

**HP4: Open Space, Sports and Recreation Facilities**

Requires new developments to contribute to the district's provision of playing pitches and outdoor sports facilities and also requires larger residential developments to provide land as open space with financial contributions toward off-site provision required from smaller sites.

**LP1: Housing Supply**

Sets out the broad location of where new housing is proposed to be built to over the next 15-20 years to meet objectively assessed needs. This application site falls within one of the areas proposed for residential development.

**LP2: Housing Choice**

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



### **LP3: Housing Density**

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

### **LP4: Housing Layout**

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

### **LP5: Affordable and Council Housing**

Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing.

### **PP12: Improving Education and Skills**

Requires the impacts of development on education provision to be addressed at a developer's costs and also requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

### **PPL1: Development and Flood Risk**

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

### **PPL3: The Rural Landscape**

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

### **PPL4: Biodiversity and Geodiversity**

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

### **PPL5: Water Conservation, Drainage and Sewerage**

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

### **PPL7: Archaeology**

Where developments might affect archaeological remains, this policy requires proper surveys, investigation and recording to be undertaken.

### **CP1: Sustainable Transport and Accessibility**

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

**CP3: Improving the Telecommunications Network**

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

Other Guidance

Essex County Council Car Parking Standards – Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

**3. Relevant Planning History**

3.1 The site has the following planning history:

15/30074/PREAPP	EIA Screening opinion request for development of 300 new homes together with new vehicular and pedestrian access and associated public open space, separate multi use community space and landscaping.	27.03.2015
15/30157/PREAPP	Development of up to 300 dwellings.	
16/00031/OUT	The erection of up to 250 dwellings with access from Elm Tree Avenue and Walton Road, including green infrastructure, children's play areas, school drop off and parking facility and other related infrastructure. <b>[Revised to The erection of up to 210 dwellings with access from Elm Tree Avenue, including green infrastructure, children's play areas, school drop off and parking facility and other related infrastructure].</b>	Current.

**4. Consultations**

TDC Building Control	No comments at this stage. Await detailed layouts.
TDC Environmental Health	No objection to the principle of a housing development on the site. However, should this application be approved, due to the historic agricultural activity on the land we would like to have a contaminated land

condition attached to ensure one is submitted at detailed stage.

TDC  
Principal Tree &  
Landscape  
Officer

The site is not well populated with trees although there are established trees on, or close to, site boundaries that fulfil a valuable screening function and that are important features in the landscape. Much of the boundary of the application site benefits from existing established hedgerows. The applicant has provided an assessment of the hedgerows: which are to be retained except for short sections that will need to be removed to facilitate access.

In order to assess the extent to which the trees and hedgerows are a constraint on the development of the land and to identify the way that they would be physically protected should planning permission for development be granted, the applicant has provided a Tree Survey and Report. which has been completed in accordance with BS5837: 2012 Trees in relation to design, demolition and construction.

Although at the outline stage, the applicant has provided a site layout plan showing proposed position of dwellings, open space provision and the position of a flood retention pond. The site layout does not identify the need to remove of any trees or other significant vegetation on the land other than the short sections of hedgerow to facilitate access to the land.

In terms of the potential impact of the development proposal on the trees those on the north, south and eastern boundaries will not be affected. The main issue appears to be the proximity of the proposed dwellings, close to the western boundary, to the trees numbered T1 to T8. These are the largest and oldest trees on the land and are within or approaching the Veteran category. Whilst the dwellings appear to be outside the Root Protection Areas (RPAs) of the trees it is not clear, from the information provided whether or not a satisfactory juxtaposition between the trees and the proposed dwellings can be achieved. It will be important to ensure that the trees are given sufficient space to avoid future problems associated with shading and obstruction to light as well as making allowances for debris that will fall from the trees.

In order to ensure that these trees are not harmed by the potential future development of the land, a new Tree Preservation Order has been made to afford them formal legal protection. Formal protection will also ensure that the trees were adequately protected during the construction phase of any development that may be granted planning permission and to deal with post development pressures.

In terms of the impact of the development on the existing landscape character it is important to recognise the existing characteristics of the landscape. The application site is situated on the southern edge of the Hamford Coastal Slopes Landscape Character Type (LCT) as defined in the Tendring District Landscape Character Assessment. To the south the application site abuts the developed land within the Clacton and the Sokens Clay Plateau. To the north the site overlooks the Hamford Drained Marshes and Islands as well as Hamford Water Marshes.

One of the key features of the Hamford Coastal Slopes Landscape Character Type (LCT) is the gently sloping land that provides a cohesive visual unit that forms an important setting for the open marshes of Hamford Water permitting panoramic views over Hamford Water to

Harwich. The landscape character is considered to be strong and is in good condition. The landscape character is highly sensitive to any change as a result of its visibility and its importance as a setting for Hamford Water. The crest of the coastal slope which forms the skyline from Hamford Water is particularly sensitive.

The overriding strategy for the Hamford Coastal Slopes is to conserve the area as a rural landscape forming a setting for Hamford Water. From the information provided the applicant has not demonstrated that development could take place without causing harm to the recognised features and quality of the local landscape. The development proposal has the potential to have an adverse impact on the landscape character of the area, and the rural and tranquil setting of Hamford Water, by the urbanisation of the open countryside adjoining the existing developed land.

The topography of the land is such that the application site can be seen from a considerable distance from several locations. To show the likely impact of the development on the character of the area the applicant should provide a Landscape and Visual Impact Assessment (LVIA). This should be provided prior to the determination of the application.

With regard to the open space and the provision of the perimeter track for access and recreational purposes; this is considered to be a positive element of the development proposal and the new access points will provide good links to the existing highway infrastructure. However special attention should be given to the extent of the provision of this feature in the south eastern corner of the application site as a similar path exists on the adjacent developed land forming part of the Edenside estate. Care should be taken to avoid a duplication of footpaths for pedestrians, on adjacent developments. This is simply not necessary. An arrangement should be made to integrate the provision of the path to ensure that unnecessary duplication does not occur.

Should planning permission be granted then a detailed soft landscaping plan and specification, including new tree planting, should be secured as a reserved matter.

#### TDC Housing

There is a high demand for housing in the Kirby-le-Soken area and there are currently 181 households on the housing register seeking a 1 bedroom property, 77 seeking a 2 bedroom property, 41 seeking a 3 bedroom property and 18 seeking a 4 bedroom property.

It is noted that the applicant has accounted for 25% of the properties on the site to be for affordable housing (31 social housing and 31 intermediate). If the applicant can find a registered provider to take on these properties, the Council would be supportive because of the high demand for housing in this area.

If a registered provider cannot be found, the Council would not be in a financial position to purchase this number of units, even at a discounted price. The Council would therefore prefer to be gifted 18 of the properties on the site as an alternative to purchasing up to 62 at a discounted price.

**[The reduction in total dwelling numbers from 250 to 210 and the change in the emerging policy to now require up to 30% affordable housing mean that either up to 63 dwellings at discounted price, or**

**18 gifted dwellings would be sought through a s106 agreement].**

TDC Open  
Space and Play

There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton and Kirby. However, there is more than adequate formal open space across the area. Any additional development will increase demand on already stretched play areas. It is noted that open space will be incorporated within the development and the provision of new on-site play areas could be incorporated within the design. With the lack of facilities in the area, a LEAP should be incorporated as one of the two play areas provided. Should the developer wish to transfer the open space and play facilities to the Council upon completion, a commuted sum will be required towards the cost of future maintenance.

ECC Highways

From a highway and transportation perspective, the impact of the proposal is acceptable to the Highway Authority subject to conditions in respect of:

- the approval of a construction management plan including details of when cleaning facilities;
- the dimensions of the junction onto Elm Tree Avenue;
- the dimensions of the junction onto Walton Road;
- provision of new bus stops in Walton Road and Elm Tree Avenue;
- footpaths along Walton Road and Elm Tree Avenue with crossing points; and
- residential travel packs.

**[ECC Highways were consulted on the revised proposal for up to 210 dwellings omitting access onto Walton Road. They have written to confirm that the revised proposal is still acceptable from a highway and transportation perspective and the revised planning conditions omit references to any junction onto Walton Road].**

ECC Schools

A development of this size can be expected to generate the need for up to 22.5 Early Years and Childcare (EY&C) places, 75 primary school, and 50 secondary school places.

According to the latest information available to Essex County Council early years and childcare team, there is insufficient full day care provision or free entitlement places to meet demand from this proposal. Additional provision will therefore be a needed and a project to expand provision or provide a new facility in the Hamford ward is proposed. An additional 22.5 places would be provided at an estimated cost of £312,255.

This proposed development is located within reasonable travelling distance of Walton-on-the-Naze Primary School, Hamford Primary Academy, Frinton-on-Sea Primary School and Kirby Primary School. These schools combined have a capacity of 926 places but are forecast to have an overall deficit of places by 2019-20. To fund the additional places required as a result of this development, a developer contribution of £912,900 would be required.

This proposed development is located within the priority admissions area for Tendring Technology College. The college has a capacity of 1,980 places. The school is forecast to have a surplus of 32 places by the school year 2019-20 but this is insufficient to accommodate all of the secondary aged pupils that would be generated by this development. The County Council is also aware that of the development proposed for Martello Caravan Park (15/01714/FUL for 216 dwellings [which has since been

given a Committee resolution to approve subject to a s106 agreement]. The Martello scheme will use up the surplus places available at Tendring Technology College and as such the costs of providing additional secondary school places should be shared pro-rata between the two sites at a cost of £18,490 per additional place required.

Having reviewed the proximity of the site to the nearest primary and secondary schools, the County Council will not be seeking a school transport contribution however the developer should ensure that safe and direct walking/cycling routes are available to the nearest schools.

**[The reduction in total dwellings from 250 to 210 means that the likely financial contributions towards education would reduce to around £262,294 for early years and childcare, £766,836 for primary provision and £18,490 per space for secondary provision i.e. up to £776,580].**

NHS England

This development is likely to have an impact on the services of the three GP practices in the locality (Thorpe Surgery – including its branch in Frinton Road, Kirby; Caradoc Surgery in Frinton; and Vicarage Lane Surgery in Walton). These GP practices do not have capacity for the additional growth as a result of this development. Therefore a Health Impact Assessment has been prepared by NHS England to provide the basis for a developer contribution toward capital funding to increase capacity within the GP Catchment Area.

There is a capacity deficit in the catchment practice and a developer contribution of £75,440 is required to mitigate the ‘capital cost’ to NHS England for the provision of additional healthcare services arising directly as a result of the development proposal. NHS England requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 agreement.

**[The contribution will fall to around £63,370 as a result of the reduction in dwelling numbers from 250 to 210 dwellings].**

Natural England

The application site is in close proximity to the Hamford Water Special Area of Conservation (SAC) and Special Protection Area (SPA) which are European sites. The site is also listed as the Hamford Water Ramsar site and also notified at a national level as the Hamford Water Site of Special Scientific Interest. In considering the European site interest, the Council as a competent authority under the provisions of the Habitats Regulations should have regard for any potential impacts that a plan or project might have (including recreational disturbance).

The applicant’s Habitat Regulations Assessment (HRA) considers that the SPA is sufficiently distant from the development not to attract significant visitors by foot, and while it is considered that a few residents might venture as far as the SPA, it is not considered that these will be in significant numbers, alone or in combination with other developments nearby. It is noted that there are only limited opportunities for parking within the designated site as a whole, and that the site has a natural zoning, with large areas inaccessible even from these access points. The report also states that the combination of 2ha open space, and links to rights of way to the south of the development should accommodate most regular recreational use.

As a result, we are satisfied that the proposed development is not likely to have a significant effect on these designates sites, so long as the green infrastructure proposed in the design (amount to 2ha, 17%), and links to the paths and green corridors to the south, is designed and managed to attract local residents and divert at least a proportion of their open space needs away from the sensitive wildlife interest at Hamford Water.

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as roosting opportunities for bats or the installation of bird nesting boxes. We have not assessed this application and associated documents for impacts on protected species; you should apply our standing advice to this application as a material consideration in its determination.

Essex County  
Council Flood  
Authority

Having reviewed the Flood Risk Assessment and further information submitted by the applicant in April and May 2016, we do not object to the granting of planning permission subject to conditions relating to the following:

- a detailed surface water drainage scheme;
- a scheme for minimising offsite flooding during construction works;
- a maintenance plan for the surface water drainage scheme; and
- keeping an on-going log of maintenance.

Essex County  
Council  
Archaeology

The Essex Historic Environment Record, Tendring Historic Environment Characterisation Report, and Archeological Desk Based assessment that accompany the application, demonstrate that the proposed development lies within an area of archaeological interest with evidence for below ground archaeological remains including linear cropmarks within the footprint of the development itself, and good potential for other below ground archaeological deposits. Any surviving below ground non-designated heritage assets with archaeological interest would be damaged or destroyed by the proposed development and therefore planning conditions should be imposed on approval of planning permission to secure, prior to commencement of development:

- a programme of trial trenching and a subsequent summary report and mitigation strategy to be submitted for the Council's consideration;
- archaeological fieldwork in any areas of the site considered to contain archaeological deposits;
- a post excavation assessment with the full site archive and report to be deposited at the local museum.

## **5. Representations**

- 1.1 The Council has received 24 objections to the proposal and one of support from residents including some lengthy and very well articulated letters raising the following concerns:
- There is no need to build any more homes in this locality, as there are already hundreds of existing houses up for sale, many of which are unoccupied;
  - There are numerous other sites involving some six to seven hundred homes in the area already proposed or agreed;
  - Surely there must be brownfield sites that can be developed before we allow the loss of prime agricultural land;
  - The applicants refer to incorrect housing needs figures in their planning statement that do not reflect the Council's agreed (albeit questionable) position of 550 dwellings per annum;

- This field forms part of a designated green belt/green gap separating the village of Kirby le Soken from the built up areas of Frinton and Walton;
- There are sufficient non-green gap sites in the district to fulfil objectively assessed housing requirements in the proposed Local Plan period without the need to erode the gap that currently exists;
- Most residents of Kirby le Soken would wish to retain the integrity of this green belt/green gap;
- The local green gap in the adopted Local Plan seeks to safeguard the identity, character and rural setting of Kirby le Soken (and Great Holland) as free standing villages in the countryside yet this development goes against that principle;
- This is a classic example of urban creep that, if allowed, would contribute to the joining of Frinton and Kirby le Soken;
- The development will be a blot on the landscape;
- This proposal will probably mean another four hundred or so cars which will make already inadequate roads even more congested;
- Thorpe le Soken is always a bottleneck and this will become worse as a result of the development;
- Clacton and Colchester Hospitals and all GP practices and dentists are under severe pressure and are barely coping so the additional residents resulting from the development would make this situation even worse;
- All primary and secondary schools in the area are having difficulties accommodating children;
- Elm Tree Avenue outside Hamford Primary Academy has been described as a dangerous stretch of road in the local newspaper and additional cars resulting from this development will make the situation even worse;
- Walton Road becomes extremely busy during peak periods, and particularly busy during the summer months when holiday makers and day-trippers come to visit Walton on the Naze, this development would make the situation worse;
- There are virtually no prospects for employment in this area;
- Policing in the area is almost non-existent and there are proposals to cut provision, including closing the local Police Station;
- There proposals to cut fire cover in the area with one of Frinton's two fire engines proposed to be removed from service;
- Views from existing homes over open countryside and the backwaters would be lost to a high density housing estate;
- The development would generate more noise which would carry to existing properties;
- The loss of views for some existing properties would have a detrimental effect on their resale value;
- The development will remove scenic uninterrupted views of the sea, backwaters, fields, trees, uplifting landscape and walks along footpaths;
- The development will urbanise an area that currently has a rural feel;
- There will be a detrimental effect on wildlife and nature conservation;
- The Council and the government has no right to consider any of these proposals until the necessary services and infrastructure have first been put in place;
- Developers and landowners are trying to take advantage of the Council's lack of an agreed Local Plan by putting forward excessive numbers of new homes;
- The 2012 Draft Local Plan sought to limit the amount of dwellings on the site to 100% aspirational, required an additional primary healthcare facility to be put in place before



the commencement of development and required the lack of school places to be resolved before the occupation of residential development – this development will address none of these requirements;

- The 2014 revisions to the Draft Local Plan removed some of these requirements and increased the estimated dwellings from 50 to 160 to address objections from the landowner, but naturally the landowner will want to maximise the size of their development and the value of their site, at the expense of the existing community;
- Even in recognition of the lack of a 5 year housing supply, the applicants should stick to the 160 dwellings suggested for the site in the Draft Local Plan;
- The development will not, as the applicants suggest, bring substantial economic benefits to the area by creating jobs but local employment levels are low and there are no new opportunities presented by this development;
- The area has a predominantly older population with no particular industrial or commercial areas in the vicinity so development is likely to increase commuting and lead to further congestion on the roads;
- The area has an older population with many people having retired to the area to be close to the sea and countryside and this is not reflected in the mixed housing development being proposed;
- The local bus system is poor in terms of frequency, timing, early finishing and congested roads;
- The rail infrastructure is inadequate with poor hourly services and high ticket costs;
- All sewerage for the area is treated at Walton which is already struggling to cope with current demand (transporting excess by road) and in danger of being lost to the eroding coastline;
- The busy small roads in the area would not be suitable for construction traffic and emergency vehicles;
- Connaught Avenue and Frinton Station do not have sufficient parking space to serve an expanding population;
- The increased number of dwellings does not appear to fit in with the local density of housing;
- The green space for the development is alongside Walton Road and is therefore not particularly safe for children playing, and;
- Flooding is becoming a major problem on the road to Kirby and water is still lying on the road, even after periods of dry weather.

4.2 Frinton and Walton Town Council has also objected to the application with the following comments:

- The indicative layout plan does not give enough information to consider such a large application;
- It appears that no notice has been taken of the consultation undertaken;
- We are not against development on this site in principle but the numbers and type of properties is the most important consideration;
- Given that this green gap is one of the finest in Tendring with magnificent views, it was expected that aspirational housing would be provided and certainly not the number of properties that are indicated;
- The proposed site plan shows a gross overdevelopment of the site;
- There is an acute lack of infrastructure within the Town Council area, and;
- The access onto Walton Road which has a 40mph speed limit is considered hazardous and a danger to road users.

**[Frinton and Walton Town Council has made further comments in response to the revisions and has recommended refusal. Its concerns are as follows:**

- **Not against the principal of housing on this site;**
- **this application makes the green gap too small;**
- **Some of the land in question is currently a flood plain when heavy rain occurs;**
- **The outline plan does not provide enough information to consider such a large application;**
- **It was expected that this site, on a Green Gap between Kirby-le-Soken and Walton-on-the Naze and is one of the finest in Tendring with magnificent views, would provide aspirational housing and fewer dwellings;**
- **This is considered gross overdevelopment of the site;**
- **There is no footpath on the side of the road where all the traffic and pedestrians would access the site;**
- **The Frinton and Walton area is now well over the planned allocation of new housing and our infrastructure with a lack of school places, lack of doctors and sewage problems makes further development of this sort impossible; and**
- **The Town Council find it very difficult to consider an outline application for this number of dwellings without more detail].**

4.3 The Kirby-le-Soken Village Preservation Society object with the following concerns:

- The development would have a hugely detrimental affect on the Backwaters SSSI;
- The green gap between Elm Tree Avenue and Kirby-le-Soken will be dramatically reduced;
- This is the most unsuitable place in the whole of Tendring to build these homes;
- This could be the third massive estate of well over 200 homes within a radius of 2 miles (including the Martello development in Walton and the Halstead Road development in Kirby Cross);
- Roads and pathways in the vicinity are narrow and would struggle to cope with a possible additional 500 vehicles from this site alone;
- Traffic movements through the village are at an all time high;
- Current health services are totally inadequate with surgeries unable to recruit new GPs;
- The nearest A&E is in Colchester and the nearest Police Station is in Clacton;
- Street lighting is cut at night;
- Schools are oversubscribed;
- The old sewerage/drainage system is struggling to cope;'
- Local employment is mainly in retail, catering and the tourist trade and there is a high reliance on commuting on expensive trains or slow and winding B-roads;
- A lower density development of bungalows could be a better approach and more agreeable to residents.

4.4 The Frinton Residents' Association has objected with the following comments:

- We support many of the local objections made about this application;
- This is a prime location with glorious views over farmland and the backwaters;
- This proposal is a gross over-development of the site;
- The site has been ear-marked for development in the Local Plan, but for aspirational housing that will be in keeping with the quality of this site's position;
- The developer appears to have 'cherry-picked' from the Draft Local Plan rather than comply with all requirements;

- The Draft Local Plan increased the proposed number of dwellings from 50 to 160 in conjunction with the landowner to maintain the quality of dwellings proposed, but this proposal for 250 dwellings rides roughshod over the balanced approach in the Local Plan (which would ensure each dwelling has a plot with good size amenity space, a garage and sufficient off-road parking space and would avoid the need for unenforceable 20mph limits or shared surfaces that do not work);
- The developer invited ideas from the community on how the proposed open space should be used, but the proposal undermines community use with a flood retention pond taking 25% of the space and an access road dividing the land and will not therefore be an effective and usable open space;
- The northern access road was not on the original proposal and apart from undermining the use of the open space area, it exits onto a faster road which would give more problems to the wider community;
- The local areas school and health services need to be addressed before such large developments are started so we can be sure that any agreed contributions are used locally to enhance our local services; and
- The Hamford Primary School causes many problems on Elm Tree Avenue at drop-off and pick-up times and the extra traffic generated by this development will make this situation worst and may just be unsustainable.

**[The Frinton Residents' Association has submitted further comments in response to the revised proposal. Whilst they welcome the developer's positive response to the Committee's concerns, it is felt that the changes could have gone further and that the development is still not fully right for this site. Specific comments are summarised as follows:**

- **A slightly lower number of dwellings will ensure we get the sort of development that is appropriate for this very well positioned site;**
- **The layout shows footpaths on all streets which is good, but there is no indication that these will be raised dedicated footpaths – these should be secured through condition as shared surfaces would not be acceptable;**
- **Conditions should be used to secure a high level of minimum room size and amenity space to avoid properties being provided at the lower end of what national standards seek as a minimum;**
- **The submitted information refers to 'opportunities' and the use of words such as 'may' and 'should' as opposed 'will' which gives little confidence that the high quality of design required for this site will be guaranteed – firm conditions should be used to secure such principles;**
- **Concerned that the 'secondary street frontage' dwellings could be crammed in as terraced dwellings without the off-street car parking being dedicated, and without some garages;**
- **Removal of the access point from Walton Road is supported, but the open space to the north of the development is still not as usable as it could be and it could be better, and safer for children, if the flood retention area and emergency vehicle entrance are located as far west as possible];**
- **Concerns about education, health and infrastructure remain – this change to the application will give only a marginal reduction to the impact – it is hoped the monies secured through the s106 agreement are spent properly to improve local facilities;**

- Essex County Council's consideration of the transport assessment, based on limited detail at this stage, is a cause for concern;
- The additional traffic generated by the development is likely to cause problems for Kirby-le-Soken and the junction at Frinton Gates, particularly when considered alongside other developments proposed in the area and the new junction arrangements now proposed for Kirby Cross following the Halstead Road decision; and
- Overall, there is still a concern that there is a lot of scope for the proposal to change significantly between outline and reserved matters stage unless conditions are used to 'lock in' some of the important issues].

4.5 Councillor Robert Bucke (Ward Member for Holland and Kirby) also objects to the application because:

- 250 dwellings would represent massive overdevelopment of the site;
- The site overlooks the Hamford Water SSSI and should provide more open space between dwellings to create a 'feathering' effect as one exits urban Frinton & Walton westwards towards the green gap;
- There should be no vehicular access to the site from Walton Road;
- There is absolutely no evidence that the developers have taken any notice whatsoever of feedback from their own consultation process;
- There are huge local concerns regarding the adequacy of local highways to accommodate another 250-1,000 dwellings in this town council area;
- Highways bottlenecks are clearly evident at Kirby le Soken, Kirby Cross and Thorpe le Soken, not to mention Frinton Gates crossing and mini-roundabouts;
- The Council's own 2013 Infrastructure Report identifies inadequacy of education provision, and local primary schools cannot be expanded (we should ignore this at our peril);
- There is no adequate provision for educating children living at these proposed homes and s106 financial contributions will not deliver school places;
- Essex County Council has no funding for new schools and academies are not controlled by ECC; and
- While individual site development applications are considered and determined on their own merits, there is no overall assessment and coordination of combined effects on local amenities and the economy.

## **6. Assessment**

### **The Site**

6.1 The application site comprises a square 11.7 hectare parcel of greenfield agricultural land between the northern edge of Frinton-on-Sea and the rural settlement of Kirby-le-Soken. The site lies south of Walton Road beyond which are the coastal slopes overlooking Hamford Water with views across to Harwich and Felixstowe. The site lies west of Elm Tree Avenue opposite existing residential development and is located a relatively short distance from the Triangle Shopping Centre. The site lies east of Turpins Farm House and its access track, immediately north of Hamford Primary School and the existing residential estate at Edenside and its associated network of green paths.

- 6.2 The topography of the site slopes gently downwards from the existing housing estate to Walton Road and the edge of the steeper coastal slopes. The northern boundary of the site is formed by a strong hedgerow with a lower hedgerow containing a number of mature trees along the eastern boundary along Elm Tree Avenue. A greater number of mature trees are found along the sites western boundary along Turpins Farm House and within the green corridor along the north of the Edenside estate.
- 6.3 The predominant style of property on the adjoining housing estate is of mixed size and type in typical brick-built 1980s/1990s style with some care home/institutional use buildings interspersed with well maintained and attractive open spaces, landscaping and green links. Development to the east on the opposite side of Elm Tree Avenue contains a mix of inter-war and post-war detached and semi-detached properties, Victorian Farm Cottages and more modern estate development backed onto an attractive area of incidental open space and landscaping.

### **The Proposal**

- 6.4 This outline planning application with all matters reserved seeks approval for the principle of erecting up to 250 dwellings, green infrastructure, children's play areas, school drop off and parking facility and other related infrastructure. It also seeks detailed approval for access from Elm Tree Avenue and Walton Road for which technical drawings have been provided. **[The revisions to the application mean that approval is now being sought for the principle of erecting up to 210 dwellings, green infrastructure, children's play areas, school drop off and parking facility and other related infrastructure with detailed approval only being sought for access from Elm Tree Avenue].**
- 6.5 Whilst other matters including landscaping, scale, design and layout are reserved for later consideration, a Design and Access Statement and indicative drawings have been submitted which demonstrate, indicatively, how such a development could be achieved within the application site. These show a large area of open space at the northern part of the site, a central boulevard linking the open space to the expanded green corridor to the south, a flood retention pond within the open area to the north, a picking up and dropping-off car park next to the primary school and access points onto Elm Tree Avenue and Walton Road **[the latter of which is now omitted from the revised proposal]**. The indicative scheme also shows footpath/cycleways through the development which connect with the track to the south.

### **Architectural Drawings**

- KA16522 01 Location Plan
- UK15044-01-REV A Illustrative Concept Plan
- 6338-SK-001 Elm Tree Avenue Proposed Site Access and Visibility Splays
- 6338-SK-003 Walton Road Proposed Site Access and Visibility Splays **[no longer relied upon following the amendment to the proposal to remove vehicular access from Walton Road]**

### **Reports and Technical Information**

- Planning Statement

- Design and Access Statement
- **[Updated supporting statement including updated DAS]**
- Statement of Community Involvement
- Transport Assessment **[revised to reflect the reduction in dwelling numbers and different access arrangements]**
- Archaeological Desk Based Assessment
- Flood Risk Assessment
- Habitat Regulations Assessment
- Phase 1 Habitat Survey
- Bat Activity Survey
- Breeding Bird Survey
- Great Crested Newt Survey
- Hedgerow Regulations Assessment
- Tree Report

### **Main Planning Considerations**

6.6 The main planning considerations are:

- The principle of development;
- Local Green Gap;
- Highways, transport and accessibility;
- Landscape, visual impact and trees;
- Flood risk and drainage;
- Ecology;
- Archaeology;
- Education provision;
- Healthcare provision;
- Utilities;
- Open space;
- Council Housing/Affordable Housing;
- Indicative layout and connections; and
- Overall planning balance.

### **Principle of development**

- 6.7 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.
- 6.8 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. The 2012 Local Plan: Proposed Submission Draft, as amended by the 2014 Local Plan: Pre-Submission Focussed Changes, is (at the time of writing) the Council's 'emerging' Local Plan. **[This has now been superseded, in full, following the publication of the 2016 Local Plan: Preferred Options Consultation Document].**

- 6.9 On 25th March 2014, the Council decided that further substantial revisions to the emerging plan will be required before it is submitted to the Secretary of State to be examined by a Planning Inspector. These revisions will aim to ensure conformity with both the NPPF and the legal 'duty to cooperate' relating mainly to issues around housing supply. The separate Local Plan Committee has overseen this work and a new draft plan has been approved for Full Council consideration on 5<sup>th</sup> July 2016. If the Council agrees to the publication of the new plan for consultation, that plan will, on publication, supersede in full the emerging Local Plan referred to above. Publication is currently scheduled for 14<sup>th</sup> July 2016. **[Publication has now taken place and the 2016 Preferred Options Consultation Document is now the emerging Local Plan].**
- 6.10 The site is not allocated for housing or mixed use development in the Council's adopted Local Plan and falls outside of the settlement development boundary. It also forms part of the designated Local Green Gap which seeks to maintain physical separation between the edge of the Frinton, Walton and Kirby Cross urban area and the separate stand-alone village of Kirby-le-Soken. In the current emerging Local Plan however, the majority of the site is specifically allocated for residential development and is proposed for inclusion within the settlement development boundary with the equivalent 'Strategic Green Gap' designation being removed. The northern part of the site is designated as proposed public open space. In the original 2012 draft, around half the site was allocated for residential development with an estimated dwelling capacity of 50 dwellings; but through the 2014 focused changes, the area proposed for development was increased to cover around three-quarters of the site and the estimated capacity was revised upwards to 160 dwellings.
- 6.11 In the new version of the Local Plan that will have been the subject to Full Council consideration on 5<sup>th</sup> July 2016 **[now published]**, the whole site is shown to be allocated for residential development and although no indicative dwelling capacity is specified in the plan itself, a report to the Local Plan Committee on 12<sup>th</sup> April 2016 suggested 250 dwellings, as being proposed in this planning application. The Local Plan Committee did resolve to approve the proposals in the new draft plan but with the condition that the dwelling capacities for individual sites be kept under review with the potential for them to be changed in the future.
- 6.12 Because the site lies outside of the settlement development boundary and falls within the Local Green Gap as defined in the adopted Local Plan, it is technically contrary to local policy. However the adopted plan falls significantly short in identifying sufficient land to meet the 'objectively assessed' future need for housing which is a key requirement of the NPPF. As a result, the Council is also currently unable to identify a five-year supply of deliverable housing sites, plus a 5-20% buffer, as required by paragraph 47 of the NPPF.
- 6.13 Based on the evidence contained within the 'Objectively Assessed Housing Needs Study (July 2015) for Braintree, Chelmsford, Colchester and Tendring, the projected need for housing in Tendring is 550 dwellings per annum. Whilst this figure is still the subject of continued scrutiny by the Local Plan Committee and could change, it currently provides the most up to date evidence on which to base the calculation of housing land supply. In applying the requirements of NPPF paragraph 47 to this requirement, the Council is currently only able to identify an approximate 3.8 year supply **[now revised to 4.2 years following recent planning approvals and appeal decisions]**. In line with paragraph 49 of

the NPPF, housing policies must therefore be considered 'out-of-date' and the government's 'presumption in favour of sustainable development' is engaged. To comply with national planning policy, the Council would not, at this time, be justified in refusing this planning application purely on the basis that it falls outside of the settlement development boundary of the adopted Local Plan.

- 6.14 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.
- 6.15 One of the NPPF's core planning principles is to *"actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable"*. With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations.
- 6.16 In both adopted and emerging plans, Frinton, Walton and Kirby Cross are together categorised as a 'town' or 'urban settlement' in recognition of their collective size and range of services and facilities and as a location where sustainable development on a larger scale can be achieved. In comparison, 'villages', 'key rural service centres' and 'smaller rural settlements' are considered to offer lesser sustainable locations for major development.
- 6.17 Furthermore, in the current **[now superseded]** emerging Local Plan (the 2012/14 draft), the application site is the subject of a specific policy (FWK9) which requires any development on the site to:
- contribute financially towards the provision of a purpose-built medical centre, either at the Martello site in Walton or elsewhere in the urban area;
  - take vehicular access from Elm Tree Avenue;
  - provide landscaping to strengthen the edge of the remain Strategic Green Gap to Kirby le Soken;
  - provide a minimum 2 hectares of public open space at the northern end of the development;
  - expand upon and connect with the existing network of footpaths and green corridors that serve the adjoining residential area;
  - create a green corridor through the centre of the development that opens out into the new area of open space affording attractive views over the coastal slopes and Hamford Water; and
  - provide a safe pedestrian footpath to Hamford Primary School and the Triangle Shopping Centre.
- 6.18 Whilst this policy, as part of a draft plan, only carries limited weight and is not proposed to be carried forward into the new version of the Local Plan, the application has sought to address these requirements as far as is possible.



- 6.19 Officers consider that the principle of this development should be supported based on the significant shortfall of housing land, the requirements of the NPPF, the site's sustainable location and the provisional support for development indicated in both the current and proposed emerging Local Plans with detailed matters of design, layout and landscaping for future consideration.

### **Local Green Gap**

- 6.20 The application site forms part of a 'Local Green Gap' as identified in the Council's adopted Local Plan. The objective of this specific green gap, as set out in the text of the Local Plan, is to safeguard the identity, character and rural setting of Kirby-le-Soken and Great Holland as free standing villages in the countryside and to protect the remaining village character of Kirby Cross and its rural setting.
- 6.21 Policy EN2 of the adopted Local Plan aims to keep Local Green Gaps essentially free of development within the plan period which, for the adopted Local Plan, was up to 2011. However, with the need for additional land for housing to meet longer-term requirements, there is an acceptance that it might not be possible to carry forward Local Green Gaps in all parts of the district into the next version of the Local Plan. So in the current **[now superseded]** version of the emerging Local Plan, many of the Local Green Gaps, including this one, have been redrawn to allow some development.
- 6.22 In recent months, the Planning Committee has resolved to refuse a number of planning applications for being contrary to adopted Local Green Gap policy including 15/01234/OUT for 240 dwellings off Halstead Road, Kirby Cross; 15/00904/OUT, 16/00208/OUT & 16/00209/OUT for 240, 220 and 276 dwellings (respectively) off Rush Green Road, Clacton; 15/01720/OUT for 175 dwellings off Centenary Way, Clacton; 15/00964/OUT for 71 dwellings off Mayes Lane, Ramsey; and 15/01710/OUT for 110 dwellings off Thorpe Road, Kirby Cross. Two of these sites (namely Rush Green Road and Mayes Lane) are specifically allocated for housing in the emerging Local Plan, as is the application site. **[Applications 15/01234/OUT for Halstead Road, Kirby Cross and 15/01710/OUT for Thorpe Road, Kirby Cross have since been allowed on appeal].**
- 6.23 The Council has also now received two appeal decisions for Local Green Gap sites. The first relates to an outline planning application for up to 60 dwellings on land north of Harwich Road, Little Oakley (Ref: 14/00995/OUT) and the second relates to an outline application for up to 75 dwellings on land east of Halstead Road, Kirby-le-Soken (Ref: 15/00928/OUT). Both appeals were dismissed with both Planning Inspectors concluded that the emerging Local Plan should carry only limited weight and that, critically, Policy EN2 in the adopted Local Plan is not a housing policy and should carry 'full weight'. The Inspector stated "*this policy aims to keep Local Green Gaps open and free of development, to prevent the coalescence of settlements and to protect their rural settings. This is compatible with the aim of the Framework, as set out in paragraph 17, to recognise the intrinsic character and beauty of the countryside and to protect valued landscapes. Consequently I have attached full weight to LP Policy EN2 in determining this appeal*".
- 6.24 However, there has since been a decision by the Court of Appeal (Cheshire East Borough Council v Secretary of State for Communities and Local Government & Anr. Case Number:

C1/2015/0894) in which three judges overturned an earlier High Court decision which had determined that green gap policies are not housing policies and should not be considered out of date if a Council cannot identify a sufficient supply of housing land. In overturning the High Court's decision, the Court of Appeal judges concluded that the concept of 'policies for the supply of housing' should not be confined to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. They concluded that this concept extends to policies whose effect it is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the green belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.

- 6.25 Notwithstanding the appeal decisions at Little Oakley and Kirby-le-Soken, the implication of this legal ruling is that the Council cannot simply refuse planning permission for development within Local Green Gaps on the basis that the Local Green Gap policy should carry 'full weight'. Instead, the Council must apply the key test within the NPPF to determine whether or not the adverse impacts of development would significantly and demonstrably outweigh the benefits – weighing up the presence of the Local Green Gap policy in the overall planning balance.
- 6.26 Given the proposed allocation of this site for housing in the emerging Local Plan, the ability to still retain a strong green gap between the development and the edge of Kirby-le-Soken and the opportunity to deliver housing in a highly accessible and sustainable location, Officers consider that the loss of this part of the adopted Local Green Gap would not significantly and demonstrably outweigh the benefits of the development.
- 6.27 Because the weight to be given to the Local Green Gap designation alongside the benefit of the development is a matter of judgement, if the Committee was to take an alternative view to Officers and concludes that the adverse impact of losing the Local Green Gap significantly and demonstrably outweighs all economic, social and environmental benefits of the development, refusal against Policy EN2 of the adopted Local Plan would at least be a legitimate reason for refusal. On this particular occasion, given the highly accessible location of the site aligned with the substantial housing land shortfall, Officers consider that a successful defence of an appeal against refusal would be more difficult here than for some of the other green-gap proposals that have been refused in recent months. **[Of anything, this view is reinforced by the Halstead Road appeal decision].**

#### **Highways, transport and accessibility**

- 6.28 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
  - safe and suitable access to the site can be achieved for all people, and;
  - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or

refused on transport grounds where the residual cumulative impacts of development are severe.

- 6.29 Policy QL2 in the adopted Local Plan and Policy SD8 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The application site immediately adjoins Hamford Primary School which is a school with space to be expanded; it is within 600 metres (or 1 kilometre at its furthest point) of Tendring Technology College upper-school campus; it is within 400 metres (800 metres at its furthest point) of the Triangle Shopping Centre which contains two supermarkets, a post office, other shops, a community building and the Town Council offices; and is within 600 metres to 1 kilometre of Frinton Park Playing Fields. Frinton Railway Station is just 1 kilometre away and Connaught Avenue shops are within around 1.5 kilometres distance. Bus services (7, 8, 9, 107) can be accessed within walking distance of the site which provide half-hourly buses between Clacton and Walton and a limited service to Colchester. For a greenfield site on the edge of an urban area, this site enjoys a very high level of accessibility to shops, services and facilities compared with many other sites proposed or already approved for development in the district.
- 6.30 Policy TRA1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy SD8 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.
- 6.31 Officers note the many objections from local residents concerned about the potential increase in traffic, particularly movements through the village of Kirby le Soken, however from a technical highways safety and capacity perspective, the Highway Authority has considered the applicant's transport assessment and has resolved to make no objections subject to conditions mainly to ensure the correct junction geometry at the proposed access points onto Elm Tree Avenue and Walton Road. **[The revision to the scheme to remove the access point onto Walton Road has been confirmed, by the Highway Authority, as being acceptable].**
- 6.32 From a highways, transport and accessibility perspective, Officers consider that whilst there is some local objection to the proposal, it meets the requirements of the NPPF and the Local Plan and refusal on these grounds would not be justified.

#### **Landscape, visual impact and trees**

- 6.33 The site is located on the edge of the built up area at a position that offers open views to and from Hamford Water and Harwich and Felixstowe beyond. It is an exposed and sensitive site in landscape terms, as rightly pointed out by objectors to the application and the Council's own Trees and Landscapes Officer. Policy FWK9 in the 2012 Draft Local Plan (as amended in 2014) **[and since superseded]** recognises this and requires a central green corridor through the development leading out to a new area of open space designed will retain, maximise and enhance these views both to and from the site.

- 6.34 Whilst the applicants have not submitted a Landscape and Visual Impact Assessment at this outline stage, the Council's own landscape assessment in support of the emerging Local Plan that was undertaken in 2009 rates the site as being of moderate adverse landscape sensitivity. It recommended that the effects of development would be reduced if the northernmost (say) third of the area were to remain undeveloped, acknowledging that would still be some adverse effects as a result of extending outside the established urban edge. This assessment informed policies such as FWK9.
- 6.35 At the outline planning stage, the specific design and layout of the properties is yet to be confirmed but the way in which the development relates to the proposed northern open space and the views out over Hamford Water will ultimately key to the scheme's success. In assessing whether or not development will be acceptable in principle (which the emerging Local Plan suggests it is), Officers turn to the NPPF and the criteria-based policies in the Local Plan relating to landscape impacts.
- 6.36 Paragraph 114 in the NPPF requires Councils to maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes, particularly in areas defined as Heritage Coast, and improve public access to and enjoyment of the coast. Paragraph 115 then says that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The application site is not affected by any of these specific designations and even the local designation designed to protect the open character of the coast (the coastal protection belt) does not cover the site itself, although it covers the coastal slopes beyond.
- 6.37 Whilst it is acknowledged that there will be some adverse effects arising from the development, the way in which the scheme is to deliver substantial open space at its northern end in line with the Council's **[superseded]** emerging policies will minimise the harm, alongside more detailed design and landscaping considerations to be determined later on. The fact that the site is not within any nationally or locally designated landscape areas (apart from local green gap which has a more specific spatial function as explained earlier in this report) means that development would not fundamentally go against national planning policy.
- 6.38 The key test for the Council is whether or not the adverse impacts would significantly and demonstrably outweigh the benefits of the development and whether the impact could be reduced or mitigated through landscaping and careful design. On the basis that adverse landscape impacts on the immediate area are generally unavoidable when it comes to greenfield settlement expansion, important views from the wider area including Hamford Water can be kept to a minimum in line with the emerging Local Plan policy, and landscaping and good design has the potential to reduce and mitigate most impacts, Officers consider that the adverse impacts would not outweigh the benefits of development and a recommendation of refusal in this instance would not be justified.
- 6.39 Policy QL9 in the adopted Local Plan and Policy SD9 in the emerging Local Plan **[superseded by Policy SPL3 in the 2016 draft]** still requires developments to respect and enhance views, skylines, landmarks, existing street patterns, open spaces and other locally

important features. Policy EN1 of the adopted Local Plan and Policy PLA5 in the emerging Local Plan **[superseded by Policy PPL3 in the 2016 draft]** seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement. Policies QL9 and SD9 **[SPL3]** also require developments to incorporate important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings.

- 6.40 The Council's Principal Trees and Landscapes Officer identifies established trees on, or close to, site boundaries that fulfil a valuable screening function and that are important features in the landscape. These will need to be retained all but for short sections that will need to be removed to facilitate access. The applicant's tree survey demonstrates that development can be achieved without the need to remove any trees or other significant vegetation on the land, other than to achieve access.
- 6.41 The most important trees on the site have been served with Tree Preservation Orders to ensure their retention and protection and although the Council's Tree Officer raises a concern about some elements of the indicative layout drawings and the possible impact on the root protection areas of important trees, these should be easy to address at the detailed reserved matters stage and do not represent a reason why development should be refused in principal. Should planning permission be granted, conditions requiring a more detailed landscaping and tree planting plan at reserved matters stage will be imposed. **[The revised indicative layout shows greater space between the properties along the western edge of the site and the boundary].**

#### **Flood risk and drainage**

- 6.42 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan **[superseded by Policy PPL1 in the 2016 draft]** still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.
- 6.43 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Initially, ECC issued a 'holding objection' and required further work to be undertaken to ensure compliance with the guidelines set out in the relevant National Planning Practice Guidance. The applicant responded to the objection with further information requested and the objection has now been addressed. ECC now supports the grant of outline planning permission subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place.
- 6.44 In conclusion, the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the scheme

should comply with the NPPF and Policies QL3 and PLA1 **[PPL1]** of the adopted and emerging Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.

## **Ecology**

- 6.45 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PLA4 of the emerging Local Plan **[superseded by Policy PPL4 in the 2016 draft]** give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.46 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as site of international, national or local importance to nature conservation but it does lie within a kilometre of Hamford Water which is designated as a Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI). Whilst the application site is located some distance, consideration still needs to be given to potential indirect effects on the designated area that might result from the proposed development.
- 6.47 Natural England has written to remind the Council of its statutory duty and to highlight specific concerns about the potential for 'recreational disturbance' to the protected habitat that might arise from the development and the associated increase in population and activity. Recreational disturbance is a significant problem for such habitats and can have a disastrous effect, in particular, on rare populations of breeding and nesting birds. Notable concerns include increased marine activity (boating, jet skiing etc) and people walking their dogs either within or close to the protected areas. Both activities can easily frighten birds that are breeding and nesting and can have an extremely detrimental impact on their numbers.
- 6.48 Importantly, paragraph 119 of the NPPF states very clearly that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined. The applicant has undertaken a Habitat Regulation Assessment and Natural England has advised that the assessments provided with the application and the fact that a considerable amount of recreational and informal open space is proposed as part of the development along with connections to existing pedestrian links provides suitable assurances that there would be no detrimental impact on the designated areas (either individually or in combination with other schemes). No further 'appropriate assessment' is therefore required and the presumption in favour of sustainable development can still apply.
- 6.49 The applicant has prepared and submitted a Phase 1 Extended Habitat Survey to assess the ecological value of the site and immediate area itself and the potential impact of the

development. Being in predominantly agricultural use, the ecological value of the site was expected to be low. However the potential to support notable and protected species, with the mature trees and hedgerows on the site boundaries was fully investigated and additional species surveys were undertaken. These concluded:

- Great Crested Newt Survey - No Great Crested Newts were found during the survey of the pond at Turpins Farm on 4 separate survey dates, hence 'as far as can be practicably determined, Great Crested Newts and their habitat are not a consideration for the current proposals.
- Breeding bird survey – potential impacts of the proposed development are not considered to be significant. Where possible hedges should be retained and new landscaping should utilise native species wherever possible and allow free movement through the sites new landscape.
- Hedgerow Regulations Assessment - None of the assessed hedgerows are "important" as defined in the Hedgerows Regulations 1997.
- Bat Activity Survey – the survey suggested potential for small scale roosts in the Oak trees within the boundary hedgerows. However this can be mitigated by new native tree planting and bat roosting opportunities in the fabric of the new houses.
- Habitats Regulations Assessment - The Hamford Water SPA, Ramsar Site and SSSI lies 750 metres to the north of the application site. This Natura 2000 site has been designated primarily for its breeding Little Tern and its over-wintering Dark-bellied Brent Goose, Shelduck, Avocet, Ringed Plover, Black-tailed Godwit and Redshank. Within the SPA boundary, is the Hamford Water SAC, designated for its population of Fisher's Estuarine Moth. The proposals include new public open space and links to existing footpaths and greenspace networks. There are good opportunities for accessing natural greenspace in the surrounding area, including two focal points for amenity access to Hamford Water itself. It is therefore considered that the numbers of people from the proposed development adding to existing levels of disturbance will be minimal. It is considered that what disturbance does occur, will not have a lasting effect on populations of Feature Interest species and, therefore, on the condition of the SPA and so there will be no likely significant effect.

### **Archaeology**

- 6.50 The applicants have also considered the archaeological value of the site and there is evidence that some archaeological remains of historical significance could potentially be beneath the soil. In line with the recommendation within the applicants' assessment and the general approach advocated by Essex County Council's Archaeologist, a condition will be applied if the Committee is minded to approve, to ensure trial trenching and recording is undertaken prior to any development to ascertain, in more detail, what archaeological remains might be present.

### **Education provision**

- 6.51 Policy QL12 in the adopted Local Plan and Policy SD7 in the emerging Local Plan **[superseded by Policy PP12 in the 2016 draft]** require that new development is supported by the necessary infrastructure which includes education provision. A large number of local residents have expressed concern that local schools will not be able to cope with the expected increase in population arising from the 250 new homes, particularly

when considered alongside other proposals for major residential development under consideration in the wider area.

6.52 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC's initial advice was submitted in response to this application in isolation however the cumulative effect of other potential developments has also been taken into account. ECC has requested a £312,000 contribution towards early years and childcare provision, a £912,000 contribution towards primary provision and a contribution towards secondary provision to be met by this development and the Martello housing scheme in Walton, to be calculated on the basis of just over £18,000 per additional school place required. **[The reduction in total dwellings from 250 to 210 means that the likely financial contributions towards education would reduce to around £262,294 for early years and childcare, £766,836 for primary provision and £18,490 per space for secondary provision].**

6.53 Whilst it is noted that there is some scepticism amongst residents as to how such moneys will be spent and a concern that spaces will not be provided in time for the additional pupils arising from the development, Essex County Council has a responsibility to ensure sufficient places are provided and it is known that Hamford Primary (an academy) can expand to meet primary requirements and Tendring Technology College can expand to meet secondary requirements. The financial contributions being sought are calculated in line with the standard guidance applied by ECC across the county and the applicant has indicated a willingness to make the necessary contributions through a s106 legal agreement. This approach has been accepted by Planning Inspectors on appeal and Officers advise that permission can be granted on this basis.

**[Following the approval, at appeal, of applications 15/01234/OUT for up to 240 dwellings off Halstead Road, Kirby Cross and 15/01710/OUT for up to 110 dwellings off Thorpe Road, Kirby Cross and the Committee resolution to approve application 15/01714/FUL for 216 dwellings on the Martello Site in Walton (subject to the completion of the s106 legal agreement), the Turpins Farm development will, if approved, be one of four significant developments in the Frinton, Walton and Kirby Cross area for which financial contributions towards education provision in the area would be secured.**

With these developments expected to deliver some 776 dwellings, the cumulative impact on education provision is an important consideration. The table below sets out the financial contributions that are likely to be secured, through s106 legal agreements, for these four large developments in the Frinton, Walton and Kirby Cross area.

	Early years and childcare	Primary provision	Secondary provision
<b>Martello site (216 dwellings)</b>	<b>£262,919</b>	<b>£768,662</b>	<b>£0</b>
<b>Halstead Road (240 dwellings)</b>	<b>£337,235*</b>	<b>£985,932*</b>	<b>£998,514*</b>



Thorpe Road (110 dwellings)	£0	£401,676*	£0
Turpins Farm (210 dwellings)	£262,294*	£766,836*	£776,580*
Total	£862,448	£2,923,106	£1,775,094

\* denotes a maximum estimated figure based on an assumption that the total number of dwellings approved through outline consents would actually be included in later reserved matters applications.

If the outline proposals deliver the maximum number of dwellings being sought, the total amount of funding going to Essex County Council is anticipated to be around £860,000 for early years and childcare provision, £2.9million for primary provision and £1.7million for secondary provision. The County Council will need to use this money to create the necessary additional capacity in local schools and pre-schools].

### Health provision

- 6.54 The requirement of the NPPF to promote the creation of high quality environments with accessible local services that reflect the community's needs also extends to health provision, another matter of considerable concern amongst local residents. Again through Policy QL12 in adopted Local Plan and Policy SD7 in the emerging Local Plan **[superseded by Policy HP1 in the 2016 draft]**, new development needs to be supported by the necessary infrastructure, including health provision.
- 6.55 As this the case across most parts of the district, local health services are operating either at, close to or above capacity in catering for the needs of the current population. One of the roles of the Local Plan is to ensure that major residential developments are planned alongside agreed investment in an area's infrastructure to accommodate anticipated increases in population. For health provision, this could mean the expansion of existing facilities or through the provision of new ones. Policy FWK9 which relates specifically to this site **[now superseded]**, requires the development to contribute toward the provision of the purpose-built medical centre proposed for land at Martello Caravan Park in Walton, or on alternative facility elsewhere in the area.
- 6.56 Because the Council's Local Plan is out of date and it cannot identify sufficient land to meet projected housing needs, applications must be considered on their merits against the government's presumption in favour of sustainable development and Officers have needed to liaise with NHS England (with a strategic overview of health provision in our area) to calculate what investment will be required to mitigate the impact of this development and others proposed in the Frinton and Walton area. Through adopted Policy QL12 and emerging Policy SD7 **[HP1]**, the Council can require developers to address infrastructure requirements likely to arise from their developments by either building new facilities or making financial contributions towards the creation of additional capacity. It is noted that there is local scepticism about how this will work in practice, but in the absence of an up to date Local Plan, this is an approach that has been accepted by Planning Inspectors.

- 6.57 As with highways and education, Officers have considered both the individual impact of this development on health provision as well as the cumulative impact that might arise if the other major developments are to be allowed. In terms of secondary hospital provision, the NHS is responsible for investment that will ensure the growing population is properly served. The Council cannot refuse planning permission for major residential developments in response to local concerns about facilities at Colchester or Clacton hospitals, particularly as house building is a key government objective alongside the modernisation of the NHS.
- 6.58 For local primary healthcare provision however, the Council working with NHS England can, through the planning system, put measures in place to mitigate the impact of population growth arising from major residential developments on local infrastructure. Whilst it is the NHS' responsibility to ensure that health centres and local surgeries are adequately resourced and staffed, the Council can secure either new buildings or financial contributions towards expanding existing buildings to ensure there is at least sufficient space for additional doctors, nurses and other medical professions to provide their services.
- 6.59 NHS England has undertaken a Health Impact Assessment of the development proposal and has identified that the local surgeries will not have the capacity to serve the additional residents that would result from the development. A developer contribution of just over £75,000 is requested to mitigate the capital cost to the NHS for the provision of additional healthcare services. The NHS has plans to build a new surgery in the Elm Tree Avenue area, not far from the development site. The applicant has indicated that they would be willing to either make the requested contribution through a s106 legal agreement. **[The contribution will fall to around £63,370 as a result of the reduction in dwelling numbers from 250 to 210].**

**[Following the approval, at appeal, of applications 15/01234/OUT for up to 240 dwellings off Halstead Road, Kirby Cross and 15/01710/OUT for up to 110 dwellings off Thorpe Road, Kirby Cross and the Committee resolution to approve application 15/01714/FUL for 216 dwellings on the Martello Site in Walton (subject to the completion of the s106 legal agreement), the Turpins Farm development will, if approved, be one of four significant developments in the Frinton, Walton and Kirby Cross area for which financial contributions towards health provision in the area would be secured.**

**With these developments expected to deliver some 776 dwellings, the cumulative impact on health provision is an important consideration. If the outline proposals deliver the maximum number of dwellings being sought, the total amount of funding going to NHS England is anticipated to be around £255,000 (£65,280 from Martello, £93,520 from Halstead Road, £33,200 from Thorpe Road and £63,370 from Turpins Farm). The NHS will need to use this money to create the necessary additional capacity in local health services].**

#### **Utilities**

- 6.60 With regard to sewage capacity, Anglian Water has advised that the proposed development site is within the Walton-on-the-Naze Water Recycling Centre (WRC) catchment where capacity will be made available to accommodate the flows from this proposal **[and others already approved].**

### Open Space

- 6.61 Policy COM6 in the adopted Local Plan and Policy PEO22 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. Policy FWK9 in the emerging Local Plan **[now superseded]** contains a specific requirement for strategic open space at the northern part of the site. The amount of open space and its location accords broadly with the expectations of the draft policy.
- 6.62 The Council's Open Spaces team have commented on the application and has requested that the provision of new on-site play areas be incorporated within the design. With the lack of facilities in the area, a LEAP should be incorporated as one of the two play areas provided. Should the developer wish to transfer the open space and play facilities to the Council upon completion, a commuted sum will be required towards the cost of future maintenance. To secure the open spaces in perpetuity, a s106 legal agreement will ensure the transfer of the land to the Council or another suitable body for future maintenance.

### Council Housing/Affordable Housing

- 6.63 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy PEO10 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 25% of new dwellings on large sites to be made available to the Council to acquire at a discounted value for use as Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 25% requirement. **[This policy is superseded by Policy LP5 in the 2016 draft which requires up to 30%].**
- 6.64 The Council's Housing Needs team has commented on the application and advised that there is a significant need for affordable housing in the area based on evidence from the local housing register. It has been suggested that, as an alternative to transferring 25% of properties to the Council (up to 62 dwellings) at a discounted value, the Council would be prepared to accept 18 properties 'gifted' (i.e. transferred to the Council or a nominated partner or trust at zero cost). **[The reduction in total dwelling numbers from 250 to 210 and the change in the emerging policy to now require up to 30% affordable housing mean that either up to 63 dwellings at discounted price, or 18 gifted dwellings would be sought through a s106 agreement].**
- 6.65 If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of Council Housing to be secured through a s106 legal agreement.

### Indicative layout

- 6.66 As an outline planning application, detailed design and layout is a reserved matter for future consideration but the Council needs to be satisfied that an appropriate scheme of up to 250 dwellings **[now revised to be up to 210 dwellings]**, open space, play area and car park

can be accommodated on the site in an appropriate manner. The indicative material **[including additional information]** submitted in support of the application, including the indicative layout and elevation drawings and Design and Access Statement demonstrate that there is a reasonable prospect of an acceptable scheme being achievable on the site.

- 6.67 The suggested layout of the properties comply with general urban design and secured-by-design principles which promote properties being positioned ‘front to front’ and ‘back to back’ and show how the dwellings could relate well to neighbouring dwellings, the proposed open space and existing green corridors. The drawings show a scheme showing plots of terraced, semi-detached and detached properties, although at reserved matters stage more detail of property sizes and types will be established. **[The revised indicative layout scheme shows more properties in detached and semi-detached form, in response to the Committee’s concerns about the density of the original scheme. Photographs of the style and form of dwellings that could be accommodated on a site like this have also been submitted as part of the revised planning statement].**
- 6.68 The density of the residential development would be approximately 21 dwellings per hectare gross and around 27 dwellings per hectare net (deducting the areas of land indicatively shown as open space, green corridors and car parking). The general density of development in the existing Edenside estate is around 21 dwellings per hectare (net) so the proposed development would be at a slightly higher density, although one that is not inappropriate in a highly accessible urban edge location. Officers note that some objectors call for the density and housing numbers to be more in line with the 160 proposed in the emerging Local Plan (2012 draft as amending in 2014) but with this policy only carrying limited weight, it would be difficult to sustain this as a reason for refusal unless a scheme of 250 dwellings was clearly inappropriate for the location. **[The reduction the maximum dwelling number from 250 to 210 means that the revised gross density would be approximately 18 dwellings per hectare and the net density would be approximately 23 dwellings per hectare].**
- 6.69 The drawing shows the proposed parking/dropping-off/picking-up area in an obvious location close to the school and a substantial widening of the existing green corridor at Edenside and a central boulevard through the scheme linking with the proposed strategic open space. These features will ensure compliance with Policy TR4 in the adopted Local Plan which encourages opportunities to expand the public right of way network. This aspect of the scheme is also supported by Natural England as a means of providing a recreational alternative to the sensitive Hamford Water.

### **Overall Planning Balance**

- 6.70 Because the Council’s Local Plan is out of date and a five-year supply of deliverable housing sites cannot currently be identified, the National Planning Policy Framework (NPPF) requires that development be approved unless the adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the NPPF suggest development should be refused. The NPPF in this regard applies a ‘presumption in favour of sustainable development’ for which sustainable development addresses economic, social and environmental considerations.

- 6.71 Economic: Whilst the scheme is predominantly residential with no commercial premises provided, up to 250 dwellings **[now 210 dwellings]** would generate additional expenditure in the local economy which has to be classed as an economic benefit. There will also be temporary jobs in construction whilst the homes are being built.
- 6.72 Social: The provision of up to 250 dwellings **[now 210 dwellings]** toward meeting projected housing need, at a time when the Council is unable to identify a five-year supply, is a significant social benefit which carries a high level of weight in the overall planning balance – particularly as government policy is to boost housing supply. Additional social benefits include the proposed open spaces. The impacts of health and schools provision will be mitigated through financial contributions to be secured through a s106 agreement, if the application is approved. As a site located within reasonable distance of a number of shops, services and facilities, the proposal performs well in respect of social sustainability.
- 6.73 Environmental: The environmental impacts of the proposal have required very careful consideration. The site is visually exposed and the landscape and visual impact will be adverse, however not the extent that it would outweigh economic and social benefits – particularly as a good landscaping scheme and strategically located open space will soften and mitigate impacts. The potential for increased recreational disturbance to the Hamford Water has been given careful consideration and it is considered that the impact would be negligible, particularly as new recreational space and connections to the wider pedestrian network will be delivered as part of the development. The ecological impact of development on the site and surrounding area itself has the potential to be positive with recommended mitigation and enhancement measures that should improve conditions for a range of protected species.
- 6.74 In the overall planning balance, Officers consider that the adverse impacts do not significantly and demonstrably outweigh the benefits, the site is proposed for development in the emerging Local Plan and the application is therefore recommended for approval subject to a s106 legal agreement and a range of planning conditions.

#### Background Papers

None.

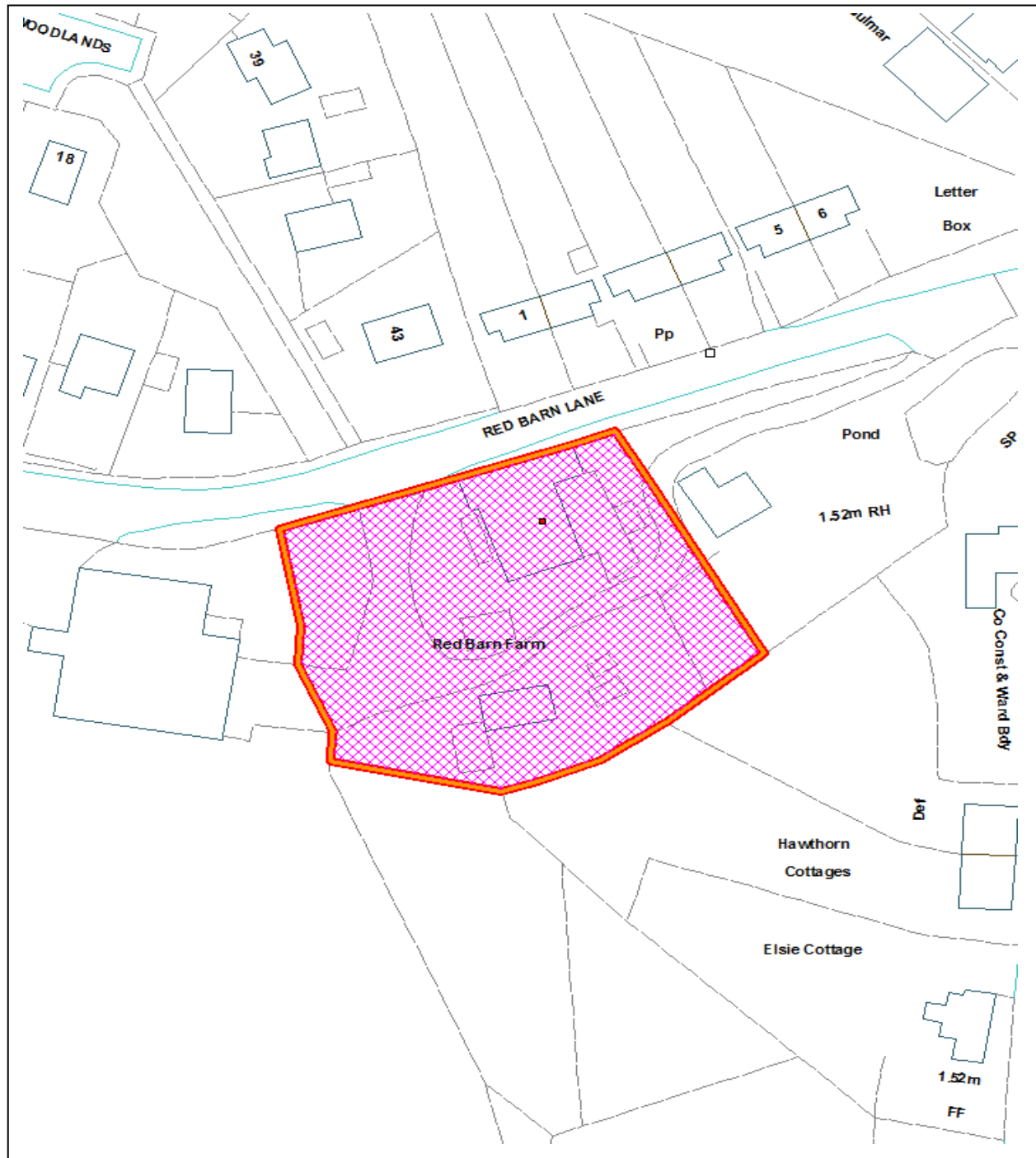
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## PLANNING COMMITTEE

4 OCTOBER 2016

### REPORT OF THE HEAD OF PLANNING

#### **A.2 PLANNING APPLICATION - 16/00546/OUT - RED BARN FARM, RED BARN LANE, GREAT OAKLEY, HARWICH, CO12 5BE**



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<b>Application:</b>	16/00546/OUT	<b>Town / Parish:</b> Great Oakley Parish Council
<b>Applicant:</b>	Mr Rose - Rose Builders Ltd	
<b>Address:</b>	Red Barn Farm, Red Barn Lane, Great Oakley, Harwich, CO12 5BE	
<b>Development:</b>	Construction of 4 no. dwellings following the demolition of existing barns and outbuildings.	

## 1. **Executive Summary**

- 1.1 This application has been referred to Planning Committee at the request of Cllr Howard.
- 1.2 This application seeks outline planning permission with all matters reserved for the construction of 4 no. dwellings with associated parking and garaging following the demolition of the existing barns and outbuildings.
- 1.3 The application site is situated on the southern side of Red Barn Lane outside of, but opposite to, the defined settlement development boundary of Great Oakley as set out in the Tendring District Local Plan (2007); but wholly within the boundary in the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016).
- 1.4 The National Planning Policy Framework however sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 1.5 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF and as a result the proposed development cannot be refused solely on the basis that a site is outside the development boundary.
- 1.6 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight.
- 1.7 The site is considered to be located in a socially sustainable location and would meet the economic strand of sustainability. In respect of the environmental impact, subject to the detailed design being acceptable, it is considered that the site could be developed without raising any objections in respect of; the character and appearance of the area, residential amenity, highway safety and biodiversity considerations.

**Recommendation: Approve**

**Conditions:**

1. Time Limit – Outline
2. Time Limit – Submission of Reserved Matters
3. No Development until Reserved Matters (access, appearance, layout, landscaping and



scale) are submitted

4. Materials
5. Boundary treatments
6. One all purpose access to a width of 5.5m with appropriate crossing
7. No unbound materials in first 6m of access
8. Vehicular visibility splays of 43m by 2.4m by 43m to access
9. Vehicular turning head of size 3 dimensions provided within the site
10. Communal bin/refuse collection point provision
11. All off-street parking in accord with current parking standards
12. Lighting Scheme details
13. Submission of a bat mitigation plan and biodiversity enhancement scheme concurrently with the Reserved Matters application
14. Removal of PD rights for fencing, walls and means of enclosure on the southern boundary of the site
15. Removal of PD rights for extensions/outbuildings

## 2. **Planning Policy**

### National Policy

National Planning Policy Framework (2012)

National Planning Practice Guidance (2014)

### Local Plan Policy

*Tendring District Local Plan 2007*

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG14 Side Isolation

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6 Biodiversity

EN6a Protected Species

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

*Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016)*

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

HP4 Open Space, Sports and Recreation Facilities

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

### **3. Relevant Planning History**

16/00546/OUT	Construction of 4 no. dwellings following the demolition of existing barns and outbuildings.	Current
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### **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:
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1. Prior to the first occupation of the proposed dwellings, one all purpose vehicular access for all the dwellings shall be constructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.
2. No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway

boundary.

3. Prior to the proposed access being brought into use, vehicular visibility splays of 43m by 2.4m by 43m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction clear to ground.
4. Prior to commencement of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction in perpetuity.
5. Prior to first occupation of the proposed development, a (communal) recycling/bin/refuse collection point shall be provided adjacent to the highway boundary and additionally clear of all visibility splays at accesses.
6. All off street car parking shall be in precise accord with the details contained within the current Parking Standards.
7. Prior to commencement of the proposed development, details of the provision for the storage of bicycles for each dwelling, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.

Essex Wildlife Trust

The proposed bat mitigation measures conform to best practice. As such holding objection is withdrawn.

Natural England

No comments to make upon the application.

## **5. Representations**

1.1 This planning application has been referred to the Planning Committee on the request of Cllr Tom Howard. Cllr Howard objects to the development for the following reasons:

- The development would generate a significant increase in vehicle movements to and from the site along a single track part of Red Barn Lane and also via The Avenue and the Stones Green Road. The development would generate additional traffic at a complex junction which includes a blind single track corner which already has regular accidents amplified by flooding on the corner;
- Over-development of the site. If development is to proceed should be limited to two dwellings at the roadside. The backland element creates over-development;
- Development is contrary to rural nature of this location and detracts from open nature of that side of Red Barn Lane;
- Risk of adverse impact to bats within the existing barns and the potential for the presence of Great Crested Newts due to proximity of nearby water sources;

- Site not identified in emerging local plan. Site not within the housing sites identified in the emerging local plan and as such there is evidence to suggest that the application site is not required to meet the District's objectively assessed housing need;
- Great Oakley is identified in the emerging local plan as a smaller rural settlement and therefore should only take 10 dwellings in the lifetime of the emerging local plan. Great Oakley has already had a significant site approved of over 50 dwellings. Any further development is over-development of a smaller rural settlement and inappropriate and unsustainable; and
- Bus services are infrequent and have limited weight to justify sustainability.

#### 1.2 Great Oakley Parish Council objects:

- Site was not included in the local plan consultation, in excess of properties required in the village, poor access on a dangerous corner and over-development of the site.

#### 1.3 2 letters of objection have been received. The points raised are summarised below:

- Increase of traffic on busy narrow lane with no pedestrian pavement. Increasing the risk of accidents;
- Lane has speed limit of 40mph which is regularly exceeded. More houses and building work would make living conditions intolerable and dangerous;
- Application running in tandem with other housing developments in Great Oakley, which combined make a total of 74 houses. The environmental impact through additional car traffic and noise pollution, loss of trees/hedges and wildlife habitats would be substantial;
- Lack of local infrastructure in terms of school and doctor's surgery places; and
- Lack of demand due to lack of commuting links.

## 2. **Assessment**

The main planning considerations are:

- Site Context
- Proposal
- Local Plan Status
- Principle of Development
- Character and Appearance
- Neighbouring Amenity
- Highway Considerations
- Biodiversity
- Legal Obligations

### **Site Context**

- 2.1 The application site is located on the southern side of Red Barn Lane within the settlement of Great Oakley. The site currently comprises of a barn and other general storage buildings previously used for agricultural purposes. The barn is located adjacent to the highway with various storage buildings in various state of repair set behind. The site benefits from an existing vehicular access onto Red Barn Lane at its western end. The site has a frontage of 47m to Red Barn Lane and a depth of 48m. The site frontage is largely open and the site rises slightly towards its rear.
- 2.2 Opposite the site is a row of semi-detached properties dating from the post war period. Further to the west is more modern development comprising of bungalows and houses that form part of a more comprehensive development on the northern side of Red Barn Lane.

Directly to the west of the site is a large agricultural building and to the east is a detached dwelling.

- 2.3 The application site lies outside of, but opposite to, the defined settlement development boundary of Great Oakley as set out in the Tendring District Local Plan (2007); but within in the Emerging Plan (Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016)).

### **Proposal**

- 2.4 The current application seeks outline consent with all matters reserved for the construction of 4 properties on the plot with associated garaging and parking. The indicative plan shows the provision of 2 no. chalet style cottages to the front with 2 no. bungalow to the rear.
- 2.5 The applicant has indicated that whilst all matters are reserved for later consideration, an indicative drawing has been submitted to indicate how development could be achieved within the application site. The indicative drawing shows one central vehicular access serving the two properties to the rear with the frontage cottages retaining their own access from Red Barn Lane.
- 2.6 These properties are indicated as accommodating a minimum of 100 square metres of private amenity space.

### **Local Plan Status**

- 2.7 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. 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 216 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.

### **Principle of Development**

- 2.8 The application site is located outside of the defined settlement boundary as defined within the Tendring District Local Plan, 2007 which aims to direct new development to the most sustainable sites. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 2.9 Great Oakley is identified as a village within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a modest amount of growth can be supported. 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.

- 2.10 Great Oakley is identified within Policy SPL1 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016) as a Smaller Rural Settlement, where some small scale development which is sympathetic to the rural character may assist younger people to continue to live in the area and keep local shops and services viable.
- 2.11 Given the limited weight that can be applied to the draft Local Plan, and the status of policy QL1, assessment of the principle of development falls to be considered under the NPPF.
- 2.12 Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective for the delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF sets out housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 2.13 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers consider that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF.
- 2.14 Based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 2.15 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- Economic;
  - Social; and
  - Environmental roles.
- 2.16 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

#### Economic

- 2.17 Officers consider that the proposal would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants utilising local services, and so meets the economic arm of sustainable development.

#### Social

- 2.18 In terms of the social role, the site is within close proximity of the local amenities within Great Oakley village such as a village convenience store, primary school and GP. These services are located approximately 1km to the north-east of the site along a pedestrian footpath accessed from Beaumont Road 80m to the east of the site. A bus stop is also located a short distance from the application site approximately 140m to the east on

Beaumont Road. The bus stop is served by an hourly bus service that operates between the larger settlements of Harwich and Clacton. These facilities go some way to illustrate the sustainability credentials for the village.

- 2.19 The Framework, at paragraph 29, acknowledges that sustainable transport solutions will vary between urban and rural areas. Furthermore, the PPG notes that all settlements can play a role in delivering sustainable development in rural areas and that blanket policies restricting housing development in some settlements should be avoided unless supported by robust evidence. In this case, the proposal would result in a net gain of 4 dwellings and, as such, any increase in car generated trips would be modest. Furthermore, the village benefits from a bus service and the facilities mentioned above. Consequently, by rural standards, a range of transport options and facilities are available. Where residents do use the car, larger towns and villages, such as Harwich, and the services available within them are a short distance away such that residents would not be reliant upon lengthy car journeys.
- 2.20 Therefore, the limited range of services within the village does not dictate that the development should be resisted, taking account of saved policy HG3 and the requirements of the Framework and PPG. A range of transport options would be available for future residents, commensurate with the location of the site. In terms of the three dimensions of sustainable development, identified at paragraph 7 of the Framework, the proposal would not lead to any significant environmental harm as a result of future travel patterns.
- 2.21 Overall therefore officers consider that the application site performs reasonably well in terms of the social role within the definition of sustainability.

#### Environmental

- 2.22 It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact (subject to consideration against other Local Plan policies) as the site is located immediately opposite the settlement development boundary as defined in the saved Tendring District Local Plan (2007) and within the settlement development boundary in the draft local plan, with a number of residential dwellings sited to the east, north and south of the site.
- 2.23 The environmental role is about contributing to protecting and enhancing the natural built and historic environment which is considered below under the heading Character and Appearance.

#### Character and Appearance

- 2.24 The site is located opposite to consolidated residential development that runs along the northern side of Red Barn Lane a further 200m to the west of the application site. Directly opposite the site are several semi-detached post war dwellings and to the west are 1980's style detached bungalows and houses. The site itself is enclosed at both ends by built development, namely a large agricultural building to the west and a two storey dwelling to the east. As stated above the site itself currently contains several large storage buildings and a barn to its frontage.
- 2.25 The development proposed of 4 no. properties arranged with 2 no. chalet cottage style dwellings fronting onto Red Barn Lane with 2 no. bungalows to the rear is considered to represent an appropriate response to the pattern of built development in the vicinity. The presence of built form at either end of the site and residential development on the opposite side of Red Barn Lane ensures that the re-development of this site would not adversely

impact upon the character and appearance of the locality. The built form would not extend out beyond that currently existing on the plot and would not project further into open countryside than the large agricultural building to the west. As such the development would not materially harm the semi-rural character of the area. The inclusion of planting to the perimeters of the site will assist in softening its appearance and help to assimilate it into its surroundings.

- 2.26 Whilst scale is a reserved matter the details submitted show that the dwellings would be between 1 and half and 1 storey in height served by single storey garages. As confirmed above the area comprises of a mixture of bungalows, chalet style dwellings and two-storey properties. Against this backdrop the siting of 4.no properties of the chalet cottage style and bungalow variety on the site would not appear out of character or prominent in this location.
- 2.27 Therefore taking into consideration the current buildings on the site, the residential character of the surrounding area and the vegetation present on and around the site, it is considered that the proposed development would have a neutral impact upon the environment and would as a result satisfy the environmental strand of sustainability as defined within the NPPF.

### **Neighbouring Amenity**

- 2.28 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016) supports these objectives and states that 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 2.29 The application is in outline form with all matters reserved and Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings. The indicative layout shows that sufficient space could be left to the existing residential property to the east not to cause any adverse impact on the resident's amenity. Furthermore, the siting of bungalows to the rear assists in preserving the privacy of the future residents residing to the frontage plots.

### **Highway Considerations**

- 2.30 Essex County Council as the Highway Authority has been consulted on the application (see above for details). They raise no objection to the principle of the development and the alterations proposed to the vehicular access from Red Barn Lane in this location. It is noted that objections have been received with regards to highway safety concerns, however as stated the Highway Authority have not raised any concerns from a highway safety aspect, and therefore Officers consider a refusal on this issue could not be substantiated.
- 2.31 The Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. It is considered that the site is capable of accommodating this level of parking and the submitted indicative plan demonstrates this.



## **Biodiversity**

- 2.32 A Phase One Habitat Survey has been carried out which confirms there are suitable features, within the area to be affected by the proposed development, which may provide foraging, nesting, breeding and roosting habitat for Bats, Great Crested Newts, Reptiles and Birds. In particular:
- Roosting Bats: Bats were confirmed to be present in Building 1, with live bats being found during the scoping survey, giving it High potential to support a permanent roost. Buildings 2 and 3 have Moderate and Low potential respectively;
  - Birds: The areas of scrub and hedgerows, as well as the buildings within the site, provide suitable nesting habitat for breeding birds during the breeding season;
  - Reptiles: The site and the surrounding habitat appear highly suitable for reptiles;
  - Foraging/Commuting Bats: The hedgerows provide suitable foraging and commuting habitat;
  - Great Crested Newts: Pond 1 located immediately adjacent to the site has a HIS score of average. Given the score and suitable terrestrial habitat for this species on site, further surveys are required to confirm presence.

- 2.33 Due to the findings of the Phase One Habitat Survey specie specific surveys have been carried out in respect of Bats, Great Crested Newts and Amphibians and Reptiles. The surveys conclude the following;

### **Bat Survey**

- 2.34 In respect of the frontage barn and attached store buildings to rear Common Pipistrelles were seen to be entering the building on all three surveys. Brown Long-eared bats were visible in the rafters of the barn and were seen during the activity survey, however these were not picked up on the detectors.
- 2.35 No bats were seen entering or egressing from the other store buildings on site.
- 2.36 Due to the presence of bats within the barn, the survey concludes that a mitigation strategy should include the following;
- Temporary roost structures, (bat boxes), will be put in place elsewhere on site prior to works commencing;
  - The demolition works will need to be undertaken when bats are unlikely to be present, (November to January inclusive);
  - It is recommended that a 'soft strip' of roof tiles, cladding and ivy be undertaken under the supervision of a licenced ecologist;
  - A permanent roost structure will be incorporated into the proposed buildings including a bat loft and bat bricks to provide suitable roosting for both Brown Long-eared and Pipistrelle species.
- 2.37 These mitigation measures will be secured via condition. It must also be noted that the applicant will need to obtain a Bat Mitigation Licence from Natural England prior to works taking place to the barn due to it being active roost site. Subject to these details being secured the development would not adversely harm the bats currently utilising the buildings for roosting activities.
- 2.38 Essex Wildlife Trust's bat expert has confirmed that these measures conform to best practice. As such Essex Wildlife Trust have confirmed they have no objections to the application.

#### Reptile Survey

- 2.39 No reptiles were encountered on site during the survey. As such, there will be no negative impact on the local population status of reptiles in the area. Reptiles will not be a material constraint to development.

#### Great Crested Newts Survey

- 2.40 No Great Crested Newts were confirmed present during the survey works. As a result no mitigation licenses are required for the development.

#### Legal Obligations

- 2.41 Following the decision by the Court of Appeal in West Berkshire District Council and Reading Borough Council v. Secretary of State for Communities and Local Government [2016] EWCA Civ 441 the National Planning Practice Guidance (NPPG) has now been amended so as to prohibit LPA's from enforcing levies on certain development schemes.
- 2.42 This amendment now means that affordable housing or tariff contributions will no longer be imposed on development schemes of 10 or less dwellings.

#### Background Papers

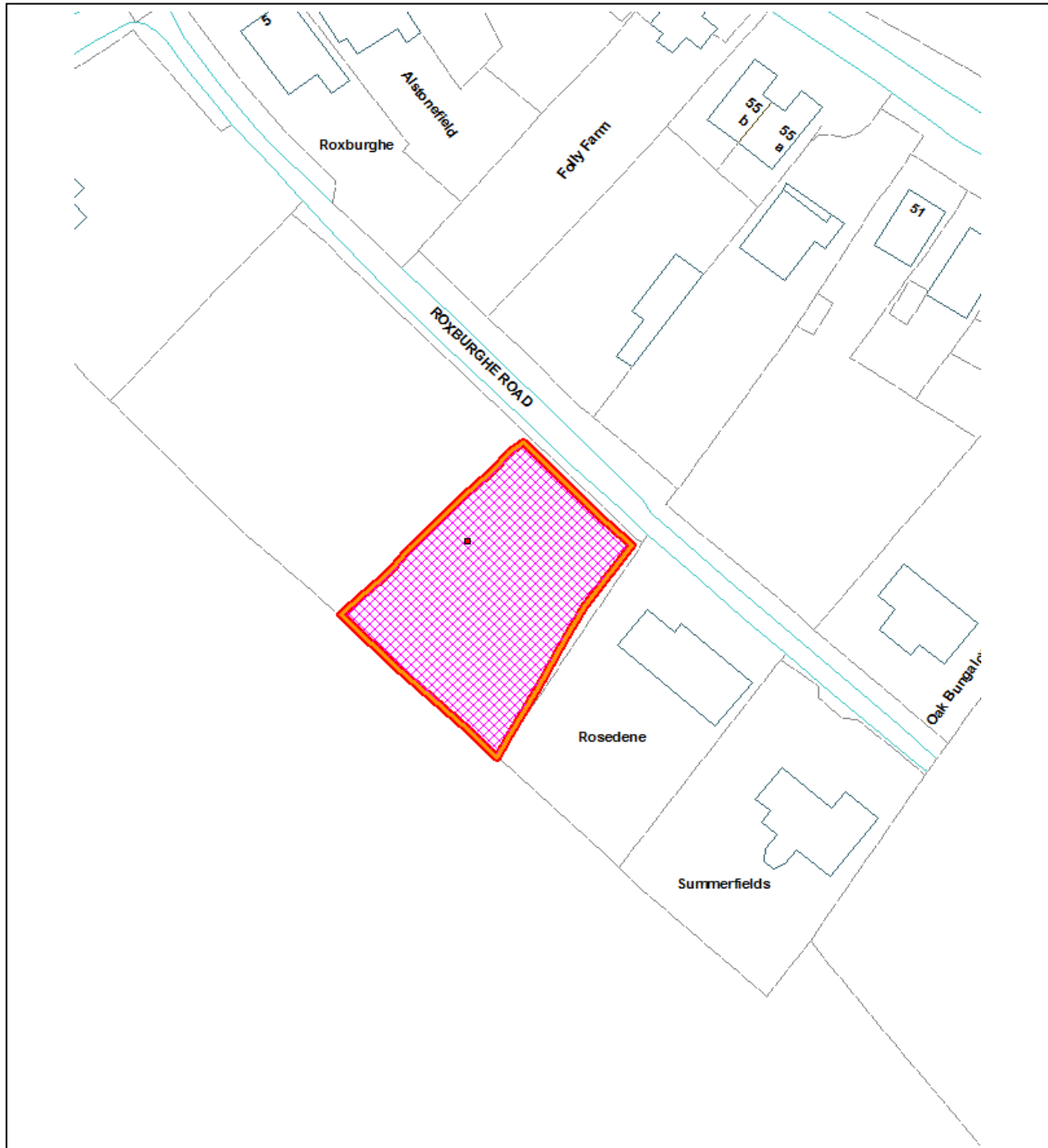
None.

## PLANNING COMMITTEE

4 OCTOBER 2016

### REPORT OF THE HEAD OF PLANNING

#### **A.3 PLANNING APPLICATION - 16/01176/DETAIL - LAND ADJACENT TO ROSEDENE (PLOT 3), ROXBURGHE ROAD, WEELEY, CO16 9DU**



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<b>Application:</b>	16/01176/DETAIL	<b>Town / Parish:</b> Weeley Parish Council
<b>Applicant:</b>	Mr David Gowans	
<b>Address:</b>	Land Adjacent To Rosedene (Plot 3) , Roxburghe Road, Weeley, CO16 9DU	
<b>Development:</b>	Reserved matters application following outline planning approval 13/00897/OUT - Construction of two storey house on plot three.	

## 1. Executive Summary

- 1.1 Outline planning permission (all matters reserved) was granted at Planning Committee in October 2013 for three dwellings under 13/00897/OUT. The current application for reserved matters approval relates only to Plot three.
- 1.2 In accordance with Members' request the current application is before Members seeking consent with regard to the reserved matters of scale, layout, appearance, access and landscaping.
- 1.3 The site lies outside the defined settlement boundary of the saved Local Plan but within the settlement boundary of the draft Local Plan. The principle of residential development has been accepted by the grant of outline planning permission.
- 1.4 The site is accessed from Roxburghe Road which is an unmade private road off Bentley Road. To the eastern boundary of the plot is a group of protected Oak trees and one protected Holly tree. The proposed position of the dwelling is such that it is within the root protection area of one of the Oaks.
- 1.5 It is considered that the position of the dwelling will be acceptable if;
  - the north eastern flank wall becomes the position of the protective fence and ground protection methods are adhered to during the construction of the flank wall and when moving materials through the RPA; and
  - the foundations of the north eastern flank wall being of pile and beam construction rather than traditional strip foundation to avoid creating a permanent barrier to root movement.
- 1.6 If the above measures were secured it is considered that the development proposal could be implemented without causing harm to the protected trees.
- 1.7 The design, siting and scale of the proposed dwelling is considered acceptable with no material harm to visual or residential amenity, or highway safety. The application is therefore recommended for approval.

### **Recommendation: Approve**

#### **Conditions:**

1. Development to be carried out strictly in accordance with submitted plans
2. Details of hard and soft landscaping to include boundary treatments

3. Details of Tree Protection Measures (Protective Fencing and Pile and Beam Foundations)
4. Parking and turning to be provided prior to occupation and retained thereafter

## 2. **Planning Policy**

### National Policy:

National Planning Policy Framework (2012)

The National Planning Policy Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development and to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

### Local Plan Policy:

*Tendring District Local Plan (2007)*

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

EN1 Landscape Character

HG9 Private Amenity Space

TR1a Development Affecting Highways

TR7 Vehicle Parking at New Development

*Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016)*

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

HP4 Open Space, Sports and Recreation Facilities

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14<sup>th</sup> July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. 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 216 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.

### **3. Relevant Planning History**

01/00493/OUT	Detached four bedroom house with detached double garage and stable	Refused	03.05.2001
93/00058/OUT	(Land at Eastdene, Roxburghe Road, Weeley) Residential development for one dwelling (part renewal of outline planning permission TEN/1281/89)	Approved	09.03.1993
94/00847/FUL	(Land at Eastdene, Roxburgh Road, Weeley) One dwelling with garage	Approved	04.10.1994
96/01564/OUT	One detached dwelling	Refused	21.01.1997
03/00375/OUT	Single dwelling house and double garage	Refused	24.04.2003
91/00843/FUL	Erection of chalet bungalow.	Approved	14.08.1991
12/01349/TPO	G1 - 01-03 Oaks, 30% crown reduction and crown clean. Raise crown to 3m. H - Holly, reduce height by 25%. Remove two leaning stems by 03 to give full	Approved	04.01.2013

view of oak tree.

13/00897/OUT	Construction of 3 two storey houses.	Approved	10.10.2013
14/01810/DETAIL	Reserved matters application following outline planning approval 13/00897/OUT - Construction of two storey house on plot one.	Approved	06.02.2015
15/01001/TPO	3 No. Oaks - remove epicormic growth to 4m twice annually commencing in August 2015 and ending in August 2020. 1 No. Holly - cut back side growth by 1.5m and remove 3m from top	Approved	28.07.2015
15/01197/FUL	Variation of condition 1 of planning permission 14/01810/DETAIL to amend drawings to change approved materials and porch.	Approved	05.10.2015
16/00342/TPO	4 No. Oaks - reduce by around 30% and remove Holly as it is growing into a mature Oak. Would like to replant younger tree in a more suitable position	Refused	29.03.2016
16/01176/DETAIL	Reserved matters application following outline planning approval 13/00897/OUT - Construction of two storey house on plot three.	Current	

#### 4. Consultations

Tree & Landscape Officer      In order to establish the degree to which the trees on the boundary of the land are a constraint on the development potential of the land the applicant has provided a Tree Survey and Report. The report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations. The trees are afforded formal legal protection by Tree Preservation Order TPO/96/02 Land Between The Shack and Rosedene, Roxburgh Road, Weeley Heath.

The report accurately describes the general health and condition of the trees on the application site and shows the extent to which they affect the development potential of the land. In this respect, however, it is important to take into account the information provided in the tree report concerning the trenching works that have been carried out within the trees Root Protection Area (RPA) to install services and the subsequent amelioration works carried out by the public utility company.

The proposed position of the dwelling is such that it is within the (RPA) of one of the Oaks in G1 of the above TPO. In this respect the development proposal will be likely to cause harm to the protected tree.

Whilst the trenching works are likely to have severed surface roots the remediation works will have improved the soil to encourage new root growth in the area where roots would have been and will need to be for the continued viability of the tree.

From the information provided in the tree report and shown on the site layout plan it is considered that the extent of the incursion into the RPA is potentially harmful to the Oak. However taking into account the harm that is likely to have been caused by the above excavation of a trench, the remediation of the soil within the RPA and the position of the dwelling at approximately 11m from the main stem of the Oak it is considered that the position of the dwelling may be acceptable if the following measures are put in place;

- The RPA should be extended so that the north eastern flank wall becomes the position of the protective fence and ground protection methods will be required during the construction of the flank wall and when moving materials through the RPA;
- Secondly it is considered that the foundations of the north eastern flank wall should be pile and beam rather than traditional strip foundation to avoid creating a permanent barrier to root movement.

If the above measures were secured it is considered likely that the development proposal could be implemented without causing harm to the protected trees.

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:

- Submission of a Construction Method Statement

## **5. Representations**

- 5.1 Weeley Parish Council has not commented upon the application.
- 5.2 No further letters of representation have been received.

## **6. Assessment**

The main planning considerations are:

- Proposal
- Site Location
- Principle of Residential Development
- Design
- Highway Safety
- Trees



- Residential Amenity

### **Proposal**

- 6.1 The application seeks reserved matters approval for development of Plot 3, granted outline planning permission under 13/00897/OUT. The reserved matters approval for plot 1 has been granted and the dwelling is under construction. There are no current proposals submitted for plot 2.
- 6.2 The proposed dwelling is set back around 8 metres from Roxburghe Road and is two storey measuring 8.7 metres to ridge height, 16.5m in width and a maximum of 17.5m in depth. It is to be constructed of a combination of blend brickwork and coloured render with concrete plain tiles to the roof.

### **Site Location**

- 6.3 The site is accessed from Roxburghe Road which is an unmade private road off Bentley Road. The land is generally open grassland with a hedgerow along the rear boundary with open farmland beyond. On the eastern boundary of the is a group of three protected Oak trees and one protected Holly tree.
- 6.4 A detached chalet style bungalow (Rosedene) abuts the eastern boundary of the site with two other dwellings also accessed from the private track, with additional rear accesses to some dwellings fronting Mill Lane.

### **Principle of Residential Development**

- 6.5 The site lies outside the defined settlement boundary of the saved Local Plan but within the settlement boundary of the draft Local Plan. The principle of residential development has been accepted by the grant of outline planning permission. Consideration under this application is therefore limited to only the reserved matters of scale, layout, appearance, access and landscaping.

### **Design**

- 6.6 The proposed two storey dwelling is located between the bungalow at 7 Bentley Road and the two undeveloped plots. Beyond Plot 3 lies a detached one and a half storey house (Rosedene).
- 6.7 The proposed dwelling has been set back around 8 metres from Roxburghe Road in line with the adjacent Rosedene to reflect the general building line. The frontage would provide a block paved front garden area with parking and turning in front of the dwelling. To the rear a garden of around 200 square metres is provided, significantly in excess of the minimum 100 square metres required by saved policy HG9. Subject to the recommended conditions relating to hard and soft landscaping and the detail of the front boundary treatment it is considered that the siting of the proposed dwelling is acceptable. The rear hedgerow boundary is to be strengthened with additional hawthorn planting.
- 6.8 The height, mass, materials and detailed design of the dwelling, including dormer windows and gables, reflects the style of property to the south east at Rosedene and the dwelling currently under construction. The neighbouring property is around 14 metres away and, as demonstrated by the submitted block plan drawing, the proposed dwelling would not appear cramped within its plot. The future development of Plot 2 would be considered in relation to

this proposal, if approved, and would need to ensure adequate bulk and spacing to ensure the development reflects the rural character of the area.

#### Highway safety

- 6.9 Roxburghe Road is an unmade private road and is subject to maintenance by the existing residents.
- 6.10 The Highway Authority has no objection to the proposal. A Construction Method Statement to provide details of parking, loading, turning, wheel and under body washing and storage of plant and materials during the construction period is required under the outline planning permission.
- 6.11 The proposal includes a large turning area within the site and off street parking for at least 6 cars. There is also an integral 'store room' with garage door to the front which, although 1.5m too shallow to be considered as a garage under the adopted parking standards, could physically accommodate one car. The proposal therefore provides sufficient off street parking to meet the needs of the dwelling. Subject to a condition securing the parking and turning areas prior to occupation of the dwelling the proposal would be acceptable in highway safety terms.

#### Trees

- 6.12 To the eastern boundary of the plot is a group of three protected Oak trees and one protected Holly tree. The Council's Tree Officer has provided comments which are outlined above in the consultees section of the report.
- 6.13 In the early summer 2015 a trench was excavated to a depth of approximately 1.2m by a utilities contractor across the plot, to relocate and bury an electricity cable. This was carried out through the root protection areas of three of the four trees. Since then the utilities contractor who carried out the trenching works has undertaken soil amelioration to address the damage caused and to encourage tree growth. Works included the de-compacting of the affected areas of soil and the incorporation of fertilizer.
- 6.14 Whilst the trenching works are likely to have severed surface roots the remediation works will have improved the soil to encourage new root growth in the area where roots would have been and will need to be for the continued viability of the tree. As such the Council's Tree Officer has confirmed that from the information provided in the tree report and shown on the site layout plan it is considered that the extent of the incursion into the RPA is potentially harmful to the Oak. However taking into account the harm that is likely to have been caused by the above excavation of a trench, the remediation of the soil within the RPA and the position of the dwelling at approximately 11m from the main stem of the Oak it is considered that the position of the dwelling may be acceptable if the following measures are put in place:
- the fence protection area should be extended so that the north eastern flank wall becomes the position of the protective fence and in this area ground protection methods will be required during the construction of the flank wall and when moving materials through the RPA; and
  - the foundations of the north eastern flank wall should be pile and beam rather than traditional strip foundation to avoid creating a permanent barrier to root movement.

- 6.15 These mitigation measures will be secured via condition and in the view of the Council's Tree Officer would ensure that the development proposal could be implemented without causing harm to the protected trees.

Residential Amenity

- 6.16 The neighbouring property at Rosedene is around 14 metres away with the protected trees sited in between. As such the proposal would result in no material loss of light or outlook to this property.
- 6.17 The only first floor window in the eastern facing flank of the property would serve an en-suite and therefore would consist of obscure glazing. The proposal would therefore result in no material loss of privacy.

Background Papers

None.

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