

Essex County Council
Archaeology

It is also observed that there appears to be discrepancies in the dimensions of parking spaces and aisle width on Drawing Numbered 1316/SK07, the aisle width fails to be provided at the absolute minimum of 6.0m in width and the parking spaces appear undersized. This discrepancy is misleading and questions the integrity of all submitted drawings.

The undersized parking spaces fail to be provided dimensionally in accord with the current Parking Standards and fail to provide any circulatory space around each vehicle and enable doors to be opened fully. The supporting piers are also impinging on access to each vehicle. Where parking spaces are constrained by structures, these spaces should be shown enlarged to ideally 3.4m in width. The Highway Authority recommends that the proposal be refused for the reasons stated above.

The Essex Historic Environment Record (HER) and Tendring Historic Environment Characterisation Project, demonstrate that the proposed development lies within an area of archaeological interest.

The proposed development lies along the edge of Walton Mere which was formerly a marshy area on the banks of a mill pond serving Walton Mill. Recent investigation on the western side of the mere has revealed a Bronze Age landscape with evidence of settlement and later activity. The potential for prehistoric, including Palaeolithic archaeological remains in a waterside location is high and there is potential for the preservation of waterlogged deposits which may contain palaeoenvironmental evidence.

The following recommendations are made in line with the Department for Communities and Local Government National Planning Policy Framework:

RECOMMENDATION: A Programme of Trial Trenching followed by Open Area Excavation

1. No development or preliminary ground-works can commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ through re-design of the development, shall be submitted to the local planning authority.

2. No development or preliminary groundwork can commence on those areas of the development site containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been signed off by the local planning authority.

Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the planning authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason for recommendation

The Tendring Historic Environment Characterisation project and Essex HER show that the proposed development is located within an area with potential for below ground archaeological deposits. The development would result in harm to non-designated heritage assets with archaeological interest.

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. The archaeological work will comprise initial trial trenching evaluation.

A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

Tree & Landscape Officer

The application site comprises areas of rough grassland with rank and ruderal vegetation. It contains coppiced Sycamore stools showing signs of strong regrowth. There is a dense thicket of Myrobalan Plum on the boundary with the adjacent area of Public Open Space maintained by Tendring district Council.

There are established trees on land to the south east of the application site within the grounds of Havencroft Court.

None of the trees on the application site are of such quality that they merit protection by means of a tree preservation order however the trees within the grounds of Havencroft Court are good specimens with high visual amenity value.

Whilst these trees are not directly threatened by the development proposal it appears that sections of the proposed development may be within their Root Protection Areas (RPAs). For this reason it will be necessary for the applicant to provide information to show that the trees will not be harmed by the development.

Therefore in order to establish the extent of the constraint that these trees have on the development potential of the land, to show their Root Protection Areas (RPA's) and to ensure that they are not harmed by the implementation of any development which may be granted planning permission the applicant should provide a Tree Survey and Report. The report should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction; Recommendations.

There appears to be little scope for new soft landscaping

ADDITIONAL COMMENTS

In order to show the impact of the development proposal on trees on the application site and on adjacent land the applicant has provided Arboricultural Impact Assessment (AIA). The document is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction: Recommendations

The AIA identifies the extent of the constraint that the trees are on the development potential of the land. It provides details of the trees that will need to be removed in order to facilitate the development of the land and shows how retained trees will be physically protected for the

duration of the construction phase of any development that may be granted planning permission.

It shows the positions of the barriers that will need to be erected to ensure roots within the Root Protection Area (RPA) are not damaged during the construction phase of any development.

In terms of the possible physical damage to tree roots the information provided by the applicant shows only a minor incursion into the RPA's of the retained trees and shows that the development could take place without causing significant harm to them.

Consideration will also need to be given to the extent that crowns of the trees may shade or otherwise affect the living conditions of future residents. This would be likely to be by way of the impact of the trees on the amount of light reaching the windows and private amenity spaces of the proposed dwellings as well as debris and detritus falling from the crown of the trees into garden areas.

The trees closest to the proposed structure and consequently having the greatest impact would be likely to be T7 and T10 Field Maple and T9 Norway Maple.

Anglian Water Services Ltd

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

Suggested Planning Conditions

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

No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

REASON To prevent environmental and amenity problems arising from flooding.

No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.

REASON To prevent environmental and amenity problems arising from flooding.

Building Control and Access Officer

Agent should show how access and turning for a fire appliance is to be provided.

Waste Management

Bin store to be of sufficient size to accommodate bulk bins for both residual waste and recycling for all 16 residential units. Access to bin store to be via level, hard standing surface with secure doors.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

NATURAL ENGLAND'S ADVICE

1) Advice on European designated sites¹ - FURTHER INFORMATION REQUIRED

It has been identified that this development falls within the 'zone of influence' for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS):

- Stour and Orwell Estuaries SPA and Ramsar site
- Hamford Water SPA and Ramsar site
- Essex Estuaries SAC
- Colne Estuary SPA and Ramsar site
- Blackwater Estuary SPA and Ramsar site
- Dengie SPA and Ramsar site
- Crouch and Roach Estuaries SPA and Ramsar site
- Foulness Estuary SPA and Ramsar site
- Benfleet and Southend Marshes SPA and Ramsar site
- Thames Estuary and Marshes SPA and Ramsar site

¹ Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Ramsar sites; the latter are listed or proposed Wetlands of International Importance under the Ramsar Convention and are protected as a matter of Government policy. Paragraph 118 of the National Planning Policy Framework applies the same protection measures as those in place for European sites.

In the context of your duty as competent authority under the provisions of the Habitats Regulations 2, it is anticipated that new residential development in this area is 'likely to have a significant effect' on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination'. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring District Council, working together to mitigate these effects. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.

In the interim period until the RAMS is in place, it is therefore important that any recreational impacts from residential schemes such as this are considered in terms of the Habitats Regulations.

As an interim approach, it is advised that such schemes be subject to a project level Habitats Regulations Assessment (HRA); in this case, we advise that appropriate funding should be agreed with and collected from the developer on the basis that it can be used to fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s)), targeted at increasing their resilience to recreational pressure in line with aspirations of the emerging RAMS. As an example, this could include funding towards existing wardening schemes at the relevant European designated site(s). A suitable delivery mechanism for the measures must be agreed to secure them and ensure they are implemented from the first occupation of dwellings. Alternatively, from our previous correspondence with your authority on other residential developments in Tendring coming

forward in the interim period (e.g. your refs: 17/02162/OUT and 17/02168/OUT), we understand that it may be acceptable, at the outline planning stage, to include a suitably-worded planning condition which secures full adherence with the emerging Essex Coast RAMS at the Reserved Matters stage, requiring a per house financial contribution to be calculated through the ongoing RAMS project work. We therefore advise that you should not grant permission until such time as these mitigation options have been assessed and secured through your HRA.

Essex Wildlife Trust

Essex Wildlife Trust position

Essex Wildlife Trust OBJECTS to the proposed development as submitted for the reasons set out below:

- Lack of essential survey data and impact assessment on overwintering wading birds using Walton Mere Local Wildlife Site (LoWS) as a foraging resource and high tide refuge
- Site lies within the Zone of Influence (ZoI) of Hamford Water Special Protection Area (SPA)¹; insufficient information has been provided to enable the planning authority to conduct a Habitats Regulations Assessment

¹Special Protection Areas are designated under Council Directive 2009/147/EC on the conservation of wild birds (the 'Birds Directive'). The Directive provides the framework for the conservation and management of, and human interactions with, wild birds in Europe. Annex 1 of the Directive lists vulnerable species for which the Special Protection Area can be designated. The Directive is transposed into UK law by the Conservation of Habitats and Species Regulations 2010 (as amended) ('The Habitats Regulations').

Hamford Water Special Protection Area

Hamford Water SPA is a large shallow estuarine basin comprising tidal creeks, intertidal mud, sand flats and saltmarshes, as well as areas of scrub and unimproved grassland to the landward side of the sea walls.

Extensive intertidal mudflats provide an abundant food resource for wintering waterbirds and areas of seagrass are exploited by large flocks of Dark-bellied Brent Geese on their autumn arrival. Ducks, grebes and cormorants feed within the sub-tidal waters and Little Terns are frequently recorded foraging in the shallower water, along the edges and mouths of creeks and channels. There are shingle spits along the coastline between Pewit Island and Dovercourt and between Walton-on-the-Naze and Stone Point. Ringed Plover use these areas for nesting. The shingle habitat is topped in places by low, retreating sand dunes and supports several uncommon plants including Sea-holly (*Eryngium maritimum*), Sea-kale (*Crambe maritima*) and Sea Sandwort (*Honkenya peploides*).

Qualifying features of the SPA include breeding Little Terns (*Sternula albifrons*) and the following overwintering waders and wildfowl: Avocet (*Recurvirostra avosetta*), Dark-bellied brent goose (*Branta bernicla bernicla*), Shelduck (*Tadorna tadorna*), Teal (*Anas crecca*), Ringed Plover (*Charadrius hiaticula*), Grey Plover (*Pluvialis squatarola*), Black-tailed Godwit (*Limosa limosa*) and Redshank (*Tringa tetanus*).

Local Wildlife Site designation

Walton Mere Local Wildlife Site comprises an area of saltmarsh to the northwest which is contiguous with the saltmarsh habitat of Hamford Water SPA, and an area of developing saltmarsh flora to the southeast dominated by Common Cord Grass (*Spartina anglica*). Other notable plants present include Common Sea-lavender (*Limonium vulgare*), Sea Aster (*Aster tripolium*), Annual Sea-blite (*Suaeda maritima*), Greater Sea-spurrey (*Spergularia media*), Sea Plantain (*Plantago maritima*), Golden Samphire (*Inula crithmoides*), Shrubby Sea-blite (*Suaeda vera*) and Lax-flowered Sea-lavender (*Limonium humile*).

The Mere forms a natural extension to the SSSI habitats of Hamford Water and provides important supporting habitat for qualifying interest features (wildfowl and waders) of the SPA.

Ecological impacts

1. Recreational disturbance of estuarine ecology

The proposed development would be located directly adjacent to an area of intertidal foreshore that is hydrologically and functionally linked to the SPA and has significant nature conservation value. Previous survey work has indicated that Walton Mere supports significant numbers of wintering bird species which are designated interest features of the SPA, including 5.98% of the SPA population of teal (*Anas crecca*), 15.4% of the SPA population of dark-bellied brent geese (*Branta bernicla bernicla*) and 13.6% of the SPA population of black-tailed godwit (*Limosa limosa islandica*).

The proposed development has the potential to result in increased recreational disturbance leading to likely significant effects on interest features of the SPA, both independently and when considered in combination.

2. European case law (the Portsmouth stadium case2)

Walton Mere functions as an important high tide roost for a range of wintering birds, including SPA qualifying species such as (but not limited to) Dark-bellied Brent Goose, Black-tailed Godwit and Teal.

At high tide the mudflats of Hamford Water are inundated and wading birds retreat to roost. This provides them with an opportunity to rest and minimise the amount of energy they use. In harsh winter conditions it is particularly important that these roosting areas are available nearby, because if birds are forced to fly significant distances to find alternative areas they use up valuable energy and this can be a significant factor in bird mortality rates.

Walton Mere provides supporting habitat for qualifying interest features of the adjacent SPA and Ramsar site. Species which have been observed at the Mere are also listed as interest features of the SPA and Ramsar site (see above).

European case law (the Portsmouth stadium case2) has established that "supporting habitat" required by the interest features of an SPA receives the same level of protection as the SPA habitat itself.

Therefore, in considering this planning application, Tendring DC should evaluate the impacts on Walton Mere according to the level of protection afforded the SPA itself.

2 Planning application by Portsmouth City Football Club, Hampshire (1983); called in by Secretary of State for the Environment who ruled that application should be rejected due to adverse impacts on Brent Geese grazing areas.

3. The Conservation of Habitats and Species Regulations 2010

Special Protection Areas (SPA) are given special protection under the European Union's Birds Directive, and in the UK through the Conservation of Habitats and Species Regulations 2010. With SACs they form the Natura 2000 series across Europe. All land-based sites are SSSIs; marine sites may extend beyond the SSSI boundary. They are designated for their birdlife, including rare and vulnerable birds and for regularly occurring migratory species. Planning authorities are required to carry out a Habitats Regulations Assessment for any plan, programme or project (including development plans and planning permissions) to ensure that any impacts are not detrimental to the features for which the sites are designated.

For an assessment of the implications of plans and projects for European sites and European offshore marine sites, see paragraph 61 (Sections 1-5) of the Conservation of Habitats and Species Regulations 2010.

For a determination of considerations of overriding public interest, see paragraph 62 (Sections 1-6) of the Conservation of Habitats and Species Regulations 2010.

Habitats Regulations Assessment

Insufficient information has been provided with this application to enable Tendring DC as the competent authority to conduct a Habitats Regulations Assessment. Regulation 61(2) of the Habitats Regulations requires the applicant to provide such information as the competent authority may reasonably require for the purposes of Appropriate Assessment, including the information necessary to assess the impacts of the development and to demonstrate, where possible, that these can be satisfactorily addressed through appropriate and secured mitigation.

Wintering bird surveys will therefore be required to establish the numbers and distribution of SPA birds using the Mere as a high tide roost and/or feeding resource throughout the late autumn, winter and early spring (ideally from October to April). The data from the surveys should then be used to inform the Appropriate Assessment.

Any predicted impacts will require appropriate mitigation measures. Mitigation should ensure that:

- there is no net loss in undisturbed roosting and foraging habitat for SPA birds at Walton Mere
- Walton Mere continues to provide supporting habitat for Hamford Water SPA/Ramsar site with no reduction in numbers of SPA birds utilising that habitat

UU - Open Space Consultation	Open Space contribution required and relevant to development to be used at Bathhouse Meadow Play Area.
UU Housing Consultation	Although there is a requirement for affordable housing to be delivered on site on this application, there has always been historic reluctance from other registered providers to purchase units in flatted developments where they will not control the freehold. The housing department would have the same reservations if it was in a position to purchase the affordable units on this site so the department would prefer a financial contribution to be provided in lieu of affordable housing on site.
Environment Agency	<p>Thank you for your consultation dated 13 July 2018. We have inspected the application as submitted and are raising a holding objection based on proximity to flood defences. We have highlighted our objection in the proximity to flood defences section below and provided guidance on how this can be overcome by the applicant. We have no objection regarding Flood Risk, and have provided guidance below and in the Technical Appendix at the end of this letter.</p> <p>Proximity To Flood Defences</p> <p>These works trigger the need for a flood risk activity permit under the terms of The Environmental Permitting (England and Wales) (Amendment) (No.2) Regulations 2016, Schedule 25, Part 2. At this time the proposed development design is unacceptable and would be unlikely to receive our consent. We are therefore raising a holding objection to the application for the following reason:</p> <p>-The development could restrict essential maintenance and emergency access to the flood defences. The permanent retention of a continuous unobstructed area is an essential requirement for future maintenance and/or improvement works.</p> <p>Overcoming our objection</p> <p>In order for this objection to be removed the applicant would have to either reposition the bike/bin shed to allow 5m clearance between this structure and the piling or make the structure demountable. If the developer chooses to make the structure demountable then the responsibility and cost associated with temporarily removing (and subsequent reinstatement) of the structure rests with the landowner. Please note that in order to undertake maintenance works we may require access with large plant machinery and this will require a 5m clearance. Under the current proposals this can be obtained by tracking over the parking spaces at the back of the properties. No objection is being raised on this basis provided the minimum 5m clearance is adhered to.</p> <p>The application does not give details of any landscaping but to clarify, under no circumstances should any vegetation be planted on the embankment nor should the existing profile of the embankment be disturbed.</p> <p>Operation of flood defences</p> <p>The specific flood defence assets located on the north west boundary of the site are an embankment with steel sheet piling running along the crest and a large steel flood gate.</p> <p>A recent inspection has shown that the sheet piling on the crest of the embankment requires maintenance in the short term which is likely to involve repainting and localised repairs. It is estimated that these</p>

works will be undertaken in the next 2 years.

We do not own the flood defence assets depicted as bordering the development site on the site plan. It is very likely that whomever owns the land these flood defences are located on also owns the flood defences and is therefore ultimately responsible for them. We currently exercise our permissive powers by maintaining these defences.

However, future funding to undertake required maintenance cannot be guaranteed and it is likely that financial contribution towards the maintenance of the defences will need to be sought.

Our operatives ensure that the flood gate is shut ahead of a flood event and we understand that the gate is not utilised at any other time. Coupled with budgetary restraints we are considering removing the gate and replacing it with a flood wall. This would provide a greater standard of protection. We would like to take this opportunity to engage with the landowner to achieve a mutually beneficial outcome. Please contact John Lindsay to discuss this further (john.lindsay@environment-agency.gov.uk). For reference, the maintenance requirements for the North Street Piling are as follows:

- a) Yearly vegetation clearance to the rear of the piling for inspection and general housekeeping
- b) A four yearly seaward face vegetation clearance to ensure large scrub and bush doesn't take hold and inspection purpose.
- c) Monthly inspection/maintenance of gate for health and safety and general operation.
- d) Yearly overhaul of the gate and a major service every seven years.

We will be looking to carry out major piling works to the North Street piling within the next two years which will include painting of the steel piles with a suitable coating and possible localised repairs to the sheet steel piles.

Flood Risk

We have no objection regarding flood risk because the site is currently defended and the SMP policy for this area has an aspiration for hold the line. If the SMP policy is not taken forward the development would be unsafe in the future. Please take note of this and the other flood risk considerations which are your responsibility. We have highlighted these in the flood risk section below.

Our maps show the site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for 16 residential units, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

Flood Risk Assessment

To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA undertaken by EAS, referenced 1316 and dated Feb 2018, are:

Actual Risk

-The site is currently protected by flood defences above the present-day 0.5% (1 in 200) annual probability flood level. Therefore the site is not at risk of flooding in the present-day 0.5% (1 in 200) annual

probability flood event. The defences will continue to offer protection over the lifetime of the development, provided that the hold the line SMP policy is followed and the defences are raised in line with climate change, which is dependent on future funding.

-If the SMP policy is not followed then at the end of the development lifetime, the 0.5% (1 in 200) annual probability including an allowance for climate change flood level of 5.11 m AOD, would overtop the existing defences.

Residual Risk

-Section 4.14 of the FRA explores the residual risk of a breach using the Tendring District Council Strategic Flood Risk Assessment (SFRA). The site could experience breach flood depths of up to 2-2.5 metres during the 0.5% (1 in 200) annual probability including climate change breach flood event.

-Assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.

-Habitable accommodation is at first floor and above flood levels - they have been proposed at 5.80 m AOD. This is above the 0.5% (1 in 200) annual probability flood level including climate change of 5.11 m AOD and the 2.5m flood breach flood water depth and therefore dry in this event.

-Flood resilience/resistance measures including a water entry strategy have been proposed in Section 5.7 of the FRA.

-There is refuge above the 0.1% (1 in 1000) annual probability breach flood level

-A Flood Evacuation Plan has been proposed and is necessary to ensure the

safety of the development in the absence of safe access / with internal flooding in the event of a breach flood,

-The advice is not to evacuate but to take refuge within the building until the water recedes.

Safety of Building

The development has been designed to provide refuge above the predicted flood levels.

Given that refuge is identified as a fall back mitigation measure it is important that the building is structurally resilient to withstand the pressures and forces (hydrostatic and hydrodynamic pressures) associated with flood water. We advise that supporting information and calculations are submitted to you to provide certainty that the buildings will be constructed to withstand these water pressures.

Shoreline Management Plan

The current defences protect this community/area against a tidal flood with a 0.5% (1 in 200) annual probability of occurrence. However, the impacts of climate change on sea levels over the development's lifetime will gradually reduce the level of protection afforded by the defences if they are not raised within this timeline. Without the raising of the defence, the site could flood should a tide with a 0.5% (1 in 200) annual probability flood event plus climate change occur, which could be contrary to the advisory requirements of Paragraphs 059 and 060 of the National Planning Policy Framework's Planning Practice Guidance. These advise that there should be no internal flooding in 'more vulnerable' developments from a design flood. This could also present challenges to the safety of the users of the buildings and a future reliance on evacuation or emergency response.

The Essex and South Suffolk Shoreline Management Plan (SMP) has a policy of 'Hold the Line' until 2105 for this location, so it is possible that the flood defences may be raised in line with climate change to continue to protect against the future 1 in 200 annual probability flood event for the lifetime of the development. The SMP policy is aspirational rather than definitive, so whether the defences are raised or reconstructed in the future will be dependent on the availability of funding. The level of funding that we can allocate towards flood defence improvements is currently evaluated through cost benefit analysis, and any identified shortfalls in scheme funding requirements would require partnership funding contributions from other organisations.

When determining the safety of the proposed development, you should take this uncertainty over the future flood defences and level of flood protection into account.

This may require consideration of whether obtaining the funds necessary to enable the defences to be raised in line with climate change is achievable. This would be required to prevent the proposed development being at unacceptable flood risk of internal flooding in the design event.

Sequential and Exception Tests

The requirement to apply the Sequential Test is set out in Paragraph 158 of the National Planning Policy Framework. The Exception Test is set out in paragraphs 159-161.

These tests are your responsibility and should be completed before the application is determined. Additional guidance is also provided on Defra's website and in the Planning Practice Guidance.

Safety of Building - Flood Resilient Construction

The FRA proposes to include flood resistant/resilient measures in the design of the building to protect/mitigate the proposed development from flooding.

If flood resistant/resilient construction measures are proposed: You should determine whether the proposed measures will ensure the safety and sustainability of the proposed development. Consultation with your building control department is recommended when determining if flood proofing measures are effective. Further information can be found in the document 'Improving the flood performance of new buildings' at:

http://www.planningportal.gov.uk/uploads/br/flood_performance.pdf.

Additional guidance can be found in our publication 'Prepare your property for flooding', which can be found on our website at <https://www.gov.uk/government/publications/prepare-our-property-for-flooding>

Safety of Inhabitants - Emergency Flood Plan

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The Planning Practice Guidance to the National Planning Policy Framework states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you consult with your Emergency Planners and the Emergency Services to determine whether the proposals are safe in accordance with the guiding principles of the Planning Practice Guidance (PPG).

We have considered the findings of the FRA in relation to the likely duration, depths, velocities and flood hazard rating against the design flood event for the development proposals. We agree
- A danger for all people (e.g. there will be danger of loss of life for the general public and the emergency services).

This does not mean we consider that the access is safe, or the proposals acceptable in this regard. We remind you to consult with your Emergency Planners and the Emergency Services to confirm the adequacy of the evacuation proposals.

Partnership funding for new/upgraded defences

Please note that government funding rules do not take into account any new properties (residential or non-residential), or existing buildings converted into housing, when determining the funding available for new/upgraded defences. Therefore as the proposed development may reduce the funding available for any future defence works we would like to take opportunities to bring in funding through the planning system, so please can you consider this when determining the planning application.

Other Sources of Flooding

In addition to the above flood risk, the site may be within an area at risk of flooding from surface water, reservoirs, sewer and/or groundwater. We have not considered these risks in any detail, but you should ensure these risks are all considered fully before determining the application.

ADDITIONAL COMMENTS

ERECTION OF 16 RESIDENTIAL UNITS, CAR PARKING, ACCESS, LANDSCAPE, INFRASTRUCTURE AND ANCILLARY WORKS.
LAND AT NORTH STREET WALTON ON THE NAZE ESSEX CO14 8PH

Thank you for your consultation dated 08 August 2018. We have reviewed the revised plans as submitted and are removing our holding objection based on proximity to flood defences. Our no objection regarding flood risk still stands, please see the guidance provided in our previous letter referenced AE/2018/123047/01.

We are satisfied the new lay out shows our access to the flood defences remains unimpeded. We would still like the developer to get in contact to discuss the plans for altering the wall and future maintenance procedures but this is not grounds to uphold the

objection.

4. Planning History

18/01098/OUT	Erection of 16 residential units, car parking, access, landscape, infrastructure and ancillary works.	Current
--------------	---	---------

5. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL3 Minimising and Managing Flood Risk

QL6 Urban Regeneration Areas

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

COM1 Access for All

COM2 Community Safety

COM6 Provision of Recreational Open Space for New Residential Development

COM23 General Pollution

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN11B Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites

EN11C Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphological Sites

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PP14 Priority Areas for Regeneration

PPL1 Development and Flood Risk

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

HP4 Safeguarded Local Greenspace

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

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

address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

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

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line with the plan-led approach.

6. Officer Appraisal (including Site Description and Proposal)

Site Description

The site is located on the west side of North Street on vacant land adjoining Walton Mere. The site has remained undeveloped and in part has been used as a boat shed and ramp into the Mere. To the south, east and north are residential properties fronting North Street. There is vehicle and pedestrian access on the west side of the site off of North Street. The site is nestled in to a small area of residential including; detached, semi-detached houses and in particular a block of flats in Havencroft Court. A public right of way runs along the western boundary of the site from North Street in Walton Town Centre to the south.

The application site comprises areas of rough grassland with rank and ruderal vegetation. It contains coppiced Sycamore stools showing signs of strong regrowth. There is a dense thicket of Myrobalan Plum on the boundary with the adjacent area of Public Open Space maintained by Tendring District Council. There are established trees on land to the south east of the application site within the grounds of Havencroft Court.

Proposal

This application proposes the erection of 16 residential units with associated car parking, access and landscaping. The application is in outline form with all matters reserved.

Indicative plans have been provided which show the development comprising of ground floor undercroft parking, first floor residential incorporating second floor accommodation within the roof, providing a maisonette style development. Access to the site is via North Street and parking provision of two spaces per unit is demonstrated as undercroft parking or within open landscaped areas.

The plans show an indicative housing mix of 4 x 1 bed units, 2 x 8 bed units and 4 x 3 bed units.

Appraisal

The site lies outside of the Settlement Development Boundary of the Saved Local Plan (Tendring District Local Plan 2007) but within the SDB of the draft Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Therefore whilst being outside the SDB in the saved local plan, the SDB contained within the emerging plan has been altered via the current local plan review process. It was accepted that the inclusion of this land would provide a logical rounding off of the current existing settlement and would reflect the boundary of Walton Mere. As such the site has been included as being within the SDB of the emerging plan which is a significant material planning consideration and demonstrates that it is the Council's intention going forward to release this land for residential purposes.

As such the principle of residential development on the plot has to be considered acceptable and sustainable.

Therefore, the success of this application hangs on other matters of detail, including highways considerations, flood risk, parking provision, access, design, siting and layout and the impact upon adjoining properties.

Design/Layout

The National Planning Policy Framework (2018) attaches great importance to the design of the built environment and confirms good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings. Paragraph 127 of the NPPF states planning policies and decisions should ensure that developments will function well and add to the overall quality of the area and are sympathetic to the local character and history, including the surrounding built environment and landscape setting.

The adopted Tendring District Local Plan (2007) saved policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form whilst ensuring that development does not have a materially damaging impact on the privacy and amenity of occupiers of nearby properties. Emerging policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) carries forward the sentiments of these saved policies stating that all new development must make a positive contribution to the quality of the local environment and protect or enhance local character.

In this instance the indicative plans submitted do not suitably demonstrate that the site could accommodate 16 properties in a manner which would leave sufficient spacing between the two proposed blocks and nearby buildings. The visualisations provided show that the development would appear excessively tall in relation to surrounding two-storey development and due to the overly bulky form of the proposed buildings, which in some places extend the whole depth of the site, they would appear cramped on this limited site and at odds with the scale and spacing of surrounding built form. In addition, the indicative plans show that to accommodate the parking needs of the development parking spaces would need to be provided via an undercroft to the front of the proposed buildings. As a result the development would appear car dominated in views from Walton Mere and from the adjacent footpath.

To summarise, a proposal that more sensitively addresses the context is possible for the development of this site, however due to the concerns identified above in respect of the massing and bulk of the buildings, the spacing to nearby properties and the car dominated nature of the development when viewed from Walton Mere, the development of the site for 16 no. dwellings is considered to represent an over-development of the site that would be detrimental to the character of the locality.

The indicative layout plans demonstrate a sufficient level of amenity space being provided either through the provision of balconies or communal amenity space.

Residential Amenities

The illustrative plans show that a minimum spacing of 14m to Havenbrook Court to the south would be retained along with 24m spacing to the dwellings in North Street to the east. This relationship is acceptable and ensures that there would not be an adverse loss of outlook to existing residents. In addition as the development would be sited to the north of the units at Havenbrook Court and loss of light would be minimal.

It is also considered that the site can accommodate the development without adversely harming nearby residents amenity space provision.

Highway Considerations

Essex County Council Highways raises an objection to the development for the following reasons:

- The additional swept path analysis drawings do not demonstrate refuse vehicles or small delivery vehicles can access the site without significant overruns of the footways introducing additional hazards to pedestrians and other highway users, contrary to the interests of highway safety. Also, the swept path analysis drawings do not demonstrate efficient and convenient ingress, egress and turning manoeuvres into and out of the parking spaces also contrary to the interests of highway safety.

- It would also appear that the proposed off street parking facilities fail to provide any visitor parking spaces contrary to the current Parking Standards, this is likely to lead to additional vehicles being left parked in the adjoining highway and access route causing conditions of danger, obstruction and congestion contrary to highway safety

- The applicant also fails to demonstrate that Public Footpath 51 will not be interfered with cause obstruction of that footpath and will not produce additional hazards to pedestrians on the Definitive Route or that it can be diverted maintaining its original width throughout the proposed development site, contrary to highway safety.

- It is also observed that there appears to be discrepancies in the dimensions of parking spaces and aisle width on Drawing Numbered 1316/SK07, the aisle width fails to be provided at the absolute minimum of 6.0m in width and the parking spaces appear undersized. This discrepancy is misleading and questions the integrity of all submitted drawings. The undersized parking spaces fail to be provided dimensionally in accord with the current Parking Standards and fail to provide any circulatory space around each vehicle and enable doors to be opened fully. The supporting piers are also impinging on access to each vehicle. Where parking spaces are constrained by structures, these spaces should be shown enlarged to ideally 3.4m in width.

Whilst the application is in outline form with all matters reserved the points noted above confirm that it has not been suitably demonstrated that the development can be accommodated on this site without compromising highway safety and providing adequate off-street parking provision.

Trees

In respect of the impact upon trees an Arboricultural Impact Assessment (AIA) has been provided. The Council's Tree Officer has reviewed its content and provides the following comments;

The AIA identifies the extent of the constraint that the trees are on the development potential of the land. It provides details of the trees that will need to be removed in order to facilitate the development of the land and shows how retained trees will be physically protected for the duration of the construction phase of any development that may be granted planning permission. It shows the positions of the barriers that will need to be erected to ensure roots within the Root Protection Area (RPA) are not damaged during the construction phase of any development. In terms of the possible physical damage to tree roots the information provided by the applicant shows only a

minor incursion into the RPAs of the retained trees and shows that the development could take place without causing significant harm to them.

Consideration will also need to be given to the extent that crowns of the trees may shade or otherwise affect the living conditions of future residents. This would be likely to be by way of the impact of the trees on the amount of light reaching the windows and private amenity spaces of the proposed dwellings as well as debris and detritus falling from the crown of the trees into garden areas.

The matter of light and shading to future residents can be considered at reserved matters stage through the submission of detailed plans. Overall it is concluded that the impact upon trees present on the site would not be detrimental.

Ecology

This development falls within the 'zone of influence' for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

In this case, Natural England has expressed concerns for the impacts of recreational pressures on those designated site. Natural England recommends that an off-site contribution is obtained to provide mitigation against any perceived impacts. However, the proposed development of 16 new dwellings is relatively modest in the context of the existing built form of Walton. For an off-site contribution to be considered reasonable it needs to meet the relevant tests in the NPPF, i.e. it needs to be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. At the present time it is clear that Natural England are not at a stage where specific projects and amounts can be identified. Therefore it is considered that the request for a financial contribution does not meet the required tests and therefore it would be against national policy to request such a contribution.

In respect of the impact upon protected species, the submitted habitat survey states that;

The Phase 1 habitat survey has established that the site is dominated by habitats not considered to be of ecological importance. However, the habitats within the site offer some limited opportunities for protected species, including species protected under national legislation. Accordingly, a number of mitigation measures have been proposed to minimise the risk of harm to protected species.

Recommended mitigation measures include; outline avoidance measures in respect of pollution prevention measures to safeguard the watercourse in the adjacent Walton Mere, Mammal Construction Safeguards to safeguard impact on Hedgehogs and other mammals, destructive search as a precautionary measure to minimise the risk of harm to reptiles and specific timing of works to avoid the bird nesting season. This outline mitigation would reduce the impacts of the development proposals upon the habitats and species present, to give rise to an overall Neutral impact.

Essex Wildlife Trust have reviewed the information provided and objects to the proposed development as submitted for the reasons set out below:

- Lack of essential survey data and impact assessment on overwintering wading birds using Walton Mere Local Wildlife Site (LoWS) as a foraging resource and high tide refuge; and
- Site lies within the Zone of Influence (Zoi) of Hamford Water Special Protection Area (SPA)¹; insufficient information has been provided to enable the planning authority to conduct a Habitats Regulations Assessment

Hamford Water Special Protection Area

Hamford Water SPA is a large shallow estuarine basin comprising tidal creeks, intertidal mud, sand flats and saltmarshes, as well as areas of scrub and unimproved grassland to the landward side of the sea walls.

Extensive intertidal mudflats provide an abundant food resource for wintering waterbirds and areas of seagrass are exploited by large flocks of Dark-bellied Brent Geese on their autumn arrival. Ducks, grebes and cormorants feed within the sub-tidal waters and Little Terns are frequently recorded foraging in the shallower water, along the edges and mouths of creeks and channels. There are shingle spits along the coastline between Pewit Island and Dovercourt and between Walton-on-the-Naze and Stone Point. Ringed Plover use these areas for nesting. The shingle habitat is topped in places by low, retreating sand dunes and supports several uncommon plants including Sea-holly (*Eryngium maritimum*), Sea-kale (*Crambe maritima*) and Sea Sandwort (*Honkenya peploides*).

Qualifying features of the SPA include breeding Little Terns (*Sternula albifrons*) and the following overwintering waders and wildfowl: Avocet (*Recurvirostra avosetta*), Dark-bellied brent goose (*Branta bernicla bernicla*), Shelduck (*Tadorna tadorna*), Teal (*Anas crecca*), Ringed Plover (*Charadrius hiaticula*), Grey Plover (*Pluvialis squatarola*), Black-tailed Godwit (*Limosa limosa*) and Redshank (*Tringa tetanus*).

Local Wildlife Site designation

Walton Mere Local Wildlife Site comprises an area of saltmarsh to the northwest which is contiguous with the saltmarsh habitat of Hamford Water SPA, and an area of developing saltmarsh flora to the southeast dominated by Common Cord Grass (*Spartina anglica*). Other notable plants present include Common Sea-lavender (*Limonium vulgare*), Sea Aster (*Aster tripolium*), Annual Sea-blite (*Suaeda maritima*), Greater Sea-spurrey (*Spergularia media*), Sea Plantain (*Plantago maritima*), Golden Samphire (*Inula crithmoides*), Shrubby Sea-blite (*Suaeda vera*) and Lax-flowered Sea-lavender (*Limonium humile*).

The Mere forms a natural extension to the SSSI habitats of Hamford Water and provides important supporting habitat for qualifying interest features (wildfowl and waders) of the SPA.

Ecological impacts

Recreational disturbance of estuarine ecology

The proposed development would be located directly adjacent to an area of intertidal foreshore that is hydrologically and functionally linked to the SPA and has significant nature conservation value. Previous survey work has indicated that Walton Mere supports significant numbers of wintering bird species which are designated interest features of the SPA, including 5.98% of the SPA population of teal (*Anas crecca*), 15.4% of the SPA population of dark-bellied brent geese (*Branta bernicla bernicla*) and 13.6% of the SPA population of black-tailed godwit (*Limosa limosa islandica*).

The proposed development has the potential to result in increased recreational disturbance leading to likely significant effects on interest features of the SPA, both independently and when considered in combination.

Walton Mere functions as an important high tide roost for a range of wintering birds, including SPA qualifying species such as (but not limited to) Dark-bellied Brent Goose, Black-tailed Godwit and Teal.

At high tide the mudflats of Hamford Water are inundated and wading birds retreat to roost. This provides them with an opportunity to rest and minimise the amount of energy they use. In harsh winter conditions it is particularly important that these roosting areas are available nearby, because if birds are forced to fly significant distances to find alternative areas they use up valuable energy and this can be a significant factor in bird mortality rates.

Walton Mere provides supporting habitat for qualifying interest features of the adjacent SPA and Ramsar site. Species which have been observed at the Mere are also listed as interest features of the SPA and Ramsar site (see above).

European case law (the Portsmouth stadium case²) has established that "supporting habitat" required by the interest features of an SPA receives the same level of protection as the SPA habitat itself.

Therefore, in considering this planning application, Tendring DC should evaluate the impacts on Walton Mere according to the level of protection afforded the SPA itself.

Special Protection Areas (SPA) are given special protection under the European Union's Birds Directive, and in the UK through the Conservation of Habitats and Species Regulations 2010. With SACs they form the Natura 2000 series across Europe. All land-based sites are SSSIs; marine sites may extend beyond the SSSI boundary. They are designated for their birdlife, including rare and vulnerable birds and for regularly occurring migratory species. Planning authorities are required to carry out a Habitats Regulations Assessment for any plan, programme or project (including development plans and planning permissions) to ensure that any impacts are not detrimental to the features for which the sites are designated.

Habitats Regulations Assessment

Insufficient information has been provided with this application to enable Tendring DC as the competent authority to conduct a Habitats Regulations Assessment. Regulation 61(2) of the Habitats Regulations requires the applicant to provide such information as the competent authority may reasonably require for the purposes of Appropriate Assessment, including the information necessary to assess the impacts of the development and to demonstrate, where possible, that these can be satisfactorily addressed through appropriate and secured mitigation.

Wintering bird surveys will therefore be required to establish the numbers and distribution of SPA birds using the Mere as a high tide roost and/or feeding resource throughout the late autumn, winter and early spring (ideally from October to April). The data from the surveys should then be used to inform the Appropriate Assessment.

Any predicted impacts will require appropriate mitigation measures. Mitigation should ensure that:

- there is no net loss in undisturbed roosting and foraging habitat for SPA birds at Walton Mere
- Walton Mere continues to provide supporting habitat for Hamford Water SPA/Ramsar site with no reduction in numbers of SPA birds utilising that habitat

Flood Risk

The Environment Agency has reviewed the content of the submitted Flood Risk Assessment and has no objections but provides the following advice;

- Section 4.14 of the FRA explores the residual risk of a breach using the Tendring District Council Strategic Flood Risk Assessment (SFRA). The site could experience breach flood depths of up to 2-2.5 metres during the 0.5% (1 in 200) annual probability including climate change breach flood event.
- Assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.
- Habitable accommodation is at first floor and above flood levels - they have been proposed at 5.80 m AOD. This is above the 0.5% (1 in 200) annual probability flood level including climate change of 5.11 m AOD and the 2.5m flood breach flood water depth and therefore dry in this event.
- Flood resilience/resistance measures including a water entry strategy have been proposed in Section 5.7 of the FRA.
- There is refuge above the 0.1% (1 in 1000) annual probability breach flood level.
- A Flood Evacuation Plan has been proposed and is necessary to ensure the safety of the development in the absence of safe access / with internal flooding in the event of a breach flood.
- The advice is not to evacuate but to take refuge within the building until the water recedes.
- The development has been designed to provide refuge above the predicted flood levels.

- Given that refuge is identified as a fall back mitigation measure it is important that the building is structurally resilient to withstand the pressures and forces (hydrostatic and hydrodynamic pressures) associated with flood water.

The Environment Agency originally objected in respect of the proximity of the development to the sea wall restricting future maintenance. However, upon the submission of amended plans shifting the development eastwards this objection was overcome.

In terms of the sequential test, the Government's Planning Practice Guidance confirms at paragraph 036 Reference ID: 7-036-20140306 that the benefits of the scheme will be such that a sequential test is not required in a Urban Regeneration Area such as this. This is the policy approach adopted by the Council for residential applications for development in Flood Zone 3 at Jaywick. The re-development of this site would promote the regeneration of Walton and the area around the Mere by providing this area with a more functional use and instigating a more active frontage to the Mere. As such the need to sequentially test the site is not required under national policy guidance.

Legal Obligations

Saved Policy COM6 in the Tendring District Local Plan (2017) and Draft Policy HP4 of the emerging Local Plan require residential developments to make financial contributions toward off-site play provision. The Council's Open Space Team has commented on the application and has confirmed that due to the lack of facilities in the area it is felt that a contribution towards play is justified and relevant to this planning application. The comments confirm that any contribution would be used for improvements to the Bathhouse Meadow Play Area.

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 LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or 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 30% requirement. In this respect the Council's Housing Department have provided the following comments;

Although there is a requirement for affordable housing to be delivered on site on this application, there has always been historic reluctance from other registered providers to purchase units in flatted developments where they will not control the freehold. The housing department would have the same reservations if it was in a position to purchase the affordable units on this site so the department would prefer a financial contribution to be provided in lieu of affordable housing on site.

A completed Unilateral Undertaking to provide the required financial contributions towards play provision and affordable housing has not been provided and the proposal is therefore contrary to Saved Policies COM6 and HG4 and Draft Policies HP4 and LP5.

Other Considerations

ECC Archaeological Team have requested a programme of trial trenching followed by an open area excavation were permission granted.

Frinton & Walton Town Council recommends approval of the development.

14 letters of objection have been received along with a petition consisting of 4 signatures. The objections/petition outlining the following concerns;

- Block views across the Walton Mere (loss of a view is not a material planning consideration)
- Impact upon nesting birds using the Mere
- Narrow entrance to North Street and adverse impact upon congestion and parking provision in the road

- Close to area of green space where children play causing health and safety concerns
- Excessive dust, dirt and noise from construction
- Adverse impact upon wildlife using the site
- Development style is out of character in this location
- Flood zone and therefore not suitable in this location
- No local infrastructure for new properties
- Over-development of the site as too many properties
- Impact upon existing resident's foundations/sewerage and utilities.

7. Recommendation

Refusal - Outline

8. Reasons for Refusal

- 1 The National Planning Policy Framework (2018) attaches great importance to the design of the built environment and confirms good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings. Paragraph 127 of the NPPF states planning policies and decisions should ensure that developments will function well and add to the overall quality of the area and are sympathetic to the local character and history, including the surrounding built environment and landscape setting.

The adopted Tendring District Local Plan (2007) saved policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form whilst ensuring that development does not have a materially damaging impact on the privacy and amenity of occupiers of nearby properties. Emerging policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) carries forward the sentiments of these saved policies stating that all new development must make a positive contribution to the quality of the local environment and protect or enhance local character.

In this instance the indicative plans submitted do not suitably demonstrate that the site could accommodate 16 properties in a manner which would leave sufficient spacing between the two proposed blocks and nearby buildings. The visualisations provided show that the development would appear excessively tall in relation to surrounding two-storey development and due to the overly bulky form of the proposed buildings, which in some places extend the whole depth of the site, they would appear cramped on this limited site and at odds with the scale and spacing of surrounding built form. In addition, the indicative plans show that to accommodate the parking needs of the development parking spaces would need to be provided via an undercroft to the front of the proposed buildings. As a result the development would appear car dominated in views from Walton Mere and from the adjacent footpath.

To summarise, a proposal that more sensitively addresses the context is possible for the development of this site, however due to the concerns identified above in respect of the massing and bulk of the buildings, the spacing to nearby properties and the car dominated nature of the development when viewed from Walton Mere, the development of the site for 16 no. dwellings is considered to represent an over-development of the site that would be detrimental to the character of the locality.

- 2 The National Planning Policy Framework (2018) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Saved Policy COM6 in the Tendring District Local Plan (2017) and Draft Policy HP4 of the emerging Local Plan require residential developments to make financial contributions toward off-site play provision. The Council's Open Space Team has commented on the application and has confirmed that due to the lack of facilities in the area it is felt that a contribution towards play is justified and relevant to this planning application. The comments confirm that any contribution would be used for improvements to the Bathhouse Meadow Play Area.

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 LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or 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 30% requirement. Due to the flatted nature of the development the Council's Housing Department have requested the provision of a financial contribution to be provided in lieu of affordable housing on the site.

A completed Section 106 to secure the above-mentioned planning obligations has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

- 3 Paragraph 175 of the National Planning Policy Framework states that when determining applications, local planning authorities should apply a number of principles including: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Saved Policies EN6 and EN6a of the adopted Tendring District Local Plan (2007) require existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm and to ensure protected species are not adversely impacted by new development. Saved policies EN11b and EN11c concern the protection of National Sites and Local Sites and state that development likely to have an adverse effect upon these sites will not be permitted unless the reasons for the development clearly outweigh the nature conservation value of the site itself.

Hamford Water SPA is a large shallow estuarine basin comprising tidal creeks, intertidal mud, sand flats and saltmarshes, as well as areas of scrub and unimproved grassland to the landward side of the sea walls.

Walton Mere Local Wildlife Site comprises an area of saltmarsh to the northwest which is contiguous with the saltmarsh habitat of Hamford Water SPA, and an area of developing saltmarsh flora. The Mere forms a natural extension to the SSSI habitats of Hamford Water and provides important supporting habitat for qualifying interest features (wildfowl and waders) of the SPA. Walton Mere functions as an important high tide roost for a range of wintering birds.

Special Protection Areas (SPA) are given special protection under the European Union's Birds Directive, and in the UK through the Conservation of Habitats and Species Regulations 2010. With Special Areas of Conservation they form the Natura 2000 series across Europe. All land-based sites are SSSIs; marine sites may extend beyond the SSSI boundary. They are designated for their birdlife, including rare and vulnerable birds and for regularly occurring migratory species. Planning authorities are required to carry out a Habitats Regulations Assessment for any plan, programme or project (including development plans and planning permissions) to ensure that any impacts are not detrimental to the features for which the sites are designated.

The proposed development would be located directly adjacent to an area of intertidal foreshore that is hydrologically and functionally linked to the SPA and has significant nature conservation value.

In this instance insufficient information has been provided with this application to enable Tendring District Council as the competent authority to conduct a Habitats Regulations Assessment. Regulation 61(2) of the Habitats Regulations requires the applicant to provide such information as the competent authority may reasonably require for the purposes of Appropriate Assessment, including the information necessary to assess the impacts of the development and to demonstrate, where possible, that these can be satisfactorily addressed through appropriate and secured mitigation.

Wintering bird surveys are therefore required to establish the numbers and distribution of SPA birds using the Mere as a high tide roost and/or feeding resource throughout the late autumn, winter and early spring. The data from the surveys should then be used to inform the Appropriate Assessment.

In the absence of such information the application is contrary to the NPPF and saved policies EN6, EN6a, EN11b and EN11c of the Tendring District Local Plan (2007).

- 4 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. Furthermore, saved Policy TR1a requires new development to be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic.

In this instance, the additional swept path analysis drawings do not demonstrate refuse vehicles or small delivery vehicles can access the site without significant overruns of the footways introducing additional hazards to pedestrians and other highway users, contrary to the interests of highway safety. Also, the swept path analysis drawings do not demonstrate efficient and convenient ingress, egress and turning manoeuvres into and out of the parking spaces also contrary to the interests of highway safety.

Furthermore, it would also appear that the proposed off street parking facilities fail to provide any visitor parking spaces contrary to the current Parking Standards, this is likely to lead to additional vehicles being left parked in the adjoining highway and access route causing conditions of danger, obstruction and congestion contrary to highway safety

The applicant also fails to demonstrate that Public Footpath 51 will not be interfered with cause obstruction of that footpath and will not produce additional hazards to pedestrians on the Definitive Route or that it can be diverted maintaining its original width throughout the proposed development site, contrary to highway safety.

It is also observed that there appears to be discrepancies in the dimensions of parking spaces and aisle width on Drawing Numbered 1316/SK07, the aisle width fails to be provided at the absolute minimum of 6.0m in width and the parking spaces appear undersized. This discrepancy is misleading and questions the integrity of all submitted drawings. The undersized parking spaces fail to be provided dimensionally in accord with the current Parking Standards and fail to provide any circulatory space around each vehicle and enable doors to be opened fully. The supporting piers are also impinging on access to each vehicle. Where parking spaces are constrained by structures, these spaces should be shown enlarged to ideally 3.4m in width.

Whilst the application is in outline form with all matters reserved the points noted above confirm that it has not been suitably demonstrated that the development can be accommodated on this site without compromising highway safety and providing adequate off-street parking provision.

9. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reasons for the refusal, approval has not been possible.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO