

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	31/01/2019
Planning Development Manager authorisation:	AN	4/2/19
Admin checks / despatch completed	AN	5/2/19

Application: 18/01354/FUL

Town / Parish: Frinton & Walton Town Council

Applicant: FGH (Essex) Ltd

Address: Land Between 176 and 178 Thorpe Road Kirby Cross

Development: Variation to part of development approved under Planning Permission 15/00465/FUL for the development of a pair of semi-detached bungalows and two pairs of semi-detached cottages.

1. Town / Parish Council

Frinton and Walton Town Council

REFUSAL - overdevelopment of the site.

2. Consultation Responses

UU Housing Consultation

On the basis that the site now consists of 13 properties in total, we would like to see affordable housing provided on site. Rounding down, this equates to 3 properties in total taking into account the requirement for 30% of properties to be for affordable housing in the emerging Local Plan. There are currently 127 households on the housing register seeking a 2 bedroom bungalow in Kirby Cross and the Council only owns 2 two bedroom bungalows in the village. The Council would prefer 3 x 2 bed bungalows to be provided as affordable housing and would prefer that another registered provider is sought to take on these properties.

UU Open Spaces

Deficit in play and formal open space. Contribution towards improvements at Halstead Road Play Area is justified and relevant to the planning application.

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:

- Prior to the first occupation of the proposed dwelling, the proposed vehicular access 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.

- 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 retained and maintained free from obstruction clear to ground thereafter.

- No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

- The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in COLCOL LTD Drawing Numbered 1600-01 Rev A. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

- Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, 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 within the site which shall be maintained free from obstruction and retained thereafter.

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

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

- Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

- Prior to the occupation of any of the proposed dwellings the footway across the entire sites frontage to Thorpe Road shall be extended to a minimum of 2.0m in width and being provided entirely at the Applicant/Developer's expense including drainage, new kerbing, surfacing, any adjustments in levels and any accommodation works to the footway and carriageway channel and making an appropriate connection in both directions to the existing footway to the specifications of the Highway Authority.

Tree & Landscape Officer

The main body of the application site is set to grass. There are no trees or other significant vegetation on the application site.

The amended layout will not alter the impact of the approved development on the character or appearance of the area.

The indicative landscaping of the site shown on the site layout plan should be secured by the provision of a detailed soft landscaping scheme. This should be the subject of a condition

Building Control and
Access Officer

No comments at this stage.

3. Planning History

15/00465/FUL

Erection of 8 no. bungalows.

Refused
(Allowed
on Appeal)

26.06.2015

16/01029/DISCON	Discharge of condition 3 (materials) and 4 (hard and soft landscaping) of planning permission 15/00465/FUL, allowed at appeal.	Approved	07.02.2017
17/00860/FUL	Erection of 7 bungalows.	Refused (Dismissed on Appeal)	19.07.2017
17/01555/FUL	Erection of 7 bungalows.	Refused	31.10.2017
18/00065/FUL	Variation to part of development approved under 15/00465/FUL for the development of one detached bungalow and two pairs of semi-detached bungalows.	Approved	06.03.2018
18/01354/FUL	Variation to part of development approved under Planning Permission 15/00465/FUL for the development of a pair of semi-detached bungalows and two pairs of semi-detached cottages.	Current	
18/01931/DISCON	Discharge of Condition 3 (Materials) and Condition 4 (Landscaping) of application 18/00065/FUL.	Approved	13.12.2018

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG4 Affordable Housing in New Developments

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN2 Local Green Gaps

EN23 Development Within the Proximity of a Listed Building

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

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PPL3 The Rural Landscape

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

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.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The site is located on land between No. 176 and No. 178 on the northern side of Thorpe Road and is adjacent to, but outside of the Settlement Development Boundary for Kirby Cross as established in the saved local plan. The site is within the Settlement Development Boundary for Thorpe Road as established in the draft local plan. The site is designated as Local Green Gap in the saved local plan. This designation is not continued in the draft local plan. The site is currently a grassed field with a new hedgerow on its northern boundary, beyond which are agricultural fields. The southern, front boundary is open in character. West of the site is No. 178 Thorpe Road, a Grade II Listed Building. To the east of the site are residential dwellings, including a bungalow, chalet bungalows and 2-storey houses. There are also dwellings on the southern side of Thorpe Road, opposite the site, set back from the highway, behind front boundary hedges.

The site forms part of a larger parcel of land that has planning permission for 10 properties that was obtained at appeal and via a subsequent planning permission to vary the scheme. The section of land relevant to this application accommodated 3 of the approved bungalows.

Proposal

This application proposes a revision to the previously approved application to substitute 3 bungalows on the Thorpe Road frontage with 6 units (5 x 2 bed and 1 x 1 bed). This scheme retains the format of the approved layout in terms of the principal road and the relationship of the original plots 1 and 2 to the listed cottage to the west of the site. The changes now proposed relate to the three plots at the front of the site. Whereas the approved scheme featured three detached 3 bed properties the proposed layout is to feature a pair of semi-detached bungalows and two pairs of semi-detached 2 bed cottages. Taking into consideration the existing planning permissions this proposal would bring the overall number of units on the whole site to 13.

Appraisal

Principle

The principle of additional residential development in this location is acceptable. The site is situated on land which is located within the SDB of the emerging local plan and which already benefits from planning permission for residential development. As such matters of consideration turn to the detail design, layout, highway matters and legal obligations.

Design/Layout

The semi-detached bungalows would be situated at the eastern end of the site adjacent to an existing bungalow of similar scale and size. These properties would be served by gardens of sufficient size to accord with policy, 82sqm and 62sqm respectively, and are provided by parking provision which accords with the current parking standards. The bungalows would take on a traditional pitched roof form and be constructed from red brick under slate roof, which relates to the character of the area and those bungalows previously approved on the site.

To the west of the bungalows two pairs of semi-detached cottages are proposed. The cottages have been designed to relate to the form and scale of existing cottage style properties further to the east. One pair will be constructed from brick and the other clad with horizontal weatherboarding to provide some variety in appearance. Each property contained within the cottages will consist of 2 bedrooms and would be served by 82 sqm of private garden space and 2 no. parking bays.

The 6 no. properties still retain sufficient side isolation to their side boundaries ensuring that the development would not appear cramped and in keeping with the surrounding pattern of the development.

The units would be served by a single point of access from Thorpe Road which serves a wide shared access way. A new public footpath is proposed to the site frontage.

The Council's Tree & Landscaping Officer has stated that the proposed variation of the development will not significantly alter the impact of the development proposal on the character of the area.

Residential Amenities

The pair of semi-detached properties retain sufficient distance to the existing bungalow to the east to ensure there would be minimal impact upon the resident's outlook and privacy. The proposed bungalows would be set in line with the existing properties thereby reducing any potential impact.

Highway Safety

Essex County Council Highways have no objections to the development subject to the following;

- Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.
- Prior to occupation of the development the vehicular turning facilities and parking areas, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
- No unbound material shall be used throughout the development.
- Prior to the first occupation of the development, the proposed access shall be constructed as a shared use route to a width of no less than 5.5 metres with an appropriate dropped kerb crossing of the footway to the satisfaction of the Local Planning Authority.
- Submission of bicycle storage details.
- Submission of a Construction Method Statement.
- Any frontage planting to be set back 1m behind highway boundary and visibility splays.
- Construction of a 2m wide public footway to the site frontage.

In terms of parking provision the plans demonstrate that each 2 bed property would be served by 2 no. parking spaces of a size commensurate with the parking standards. The 1 bed bungalow would be served by a single space.

Listed Building

As the application relates to the eastern element of the development, which is sited away from the listed building to the west, there would not be any additional harm caused to the setting of the listed building. The proposed set back of the properties follows the approach taken under the previous approval and ensures views of the listed building to the west would be retained.

Legal Obligations

The proposal would result in the overall development equating 13 units. As a result of this affordable housing provisions and public open space contributions are required to comply with local plan policies.

The Council's Housing Dept has confirmed the following;

'On the basis that the site now consists of 13 properties in total, we would like to see affordable housing provided on site. Rounding down, this equates to 3 properties in total taking into account the requirement for 30% of properties to be for affordable housing in the emerging Local Plan. There are currently 127 households on the housing register seeking a 2 bedroom bungalow in Kirby Cross and the Council only owns 2 two bedroom bungalows in the village. The Council would prefer 3 x 2 bed bungalows to be provided as affordable housing and would prefer that another registered provider is sought to take on these properties'.

In respect of the Public Open Space contribution the Council's Open Spaces Team has confirmed that a contribution towards play enhancements at the Halstead Road Play Area would be justified and relevant to the proposal.

In the absence of any completed legal agreement securing these provisions the development is contrary to the local plan policies which seek to obtain these provisions.

Other Considerations

Frinton & Walton Town Council recommend refusal due to overdevelopment of the site. No further letters of representation have been received.

6. Recommendation

Refusal

7. Reasons for Refusal

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 sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Policy HG4 of the adopted Tendring District Local Plan 2007 states that housing development for 15 or more dwellings/ over 0.5 hectares in towns (such as this) 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 sites of 11 or more homes 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.

Paragraph 64 of the National Planning Policy Framework (2018) confirms the stance taken in the emerging local plan by stating that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership.

Saved Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

It is considered that this proposal and that previously approved under planning appeal reference APP/P1560/W/15/3141169 and planning reference 18/00065/FUL constitutes a sub-division of a single site and therefore results in a total of 13 units. Consequently the above policies are applicable and therefore the development needs to provide for affordable housing provision and a public open space contribution through a s106 legal agreement.

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

8. 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