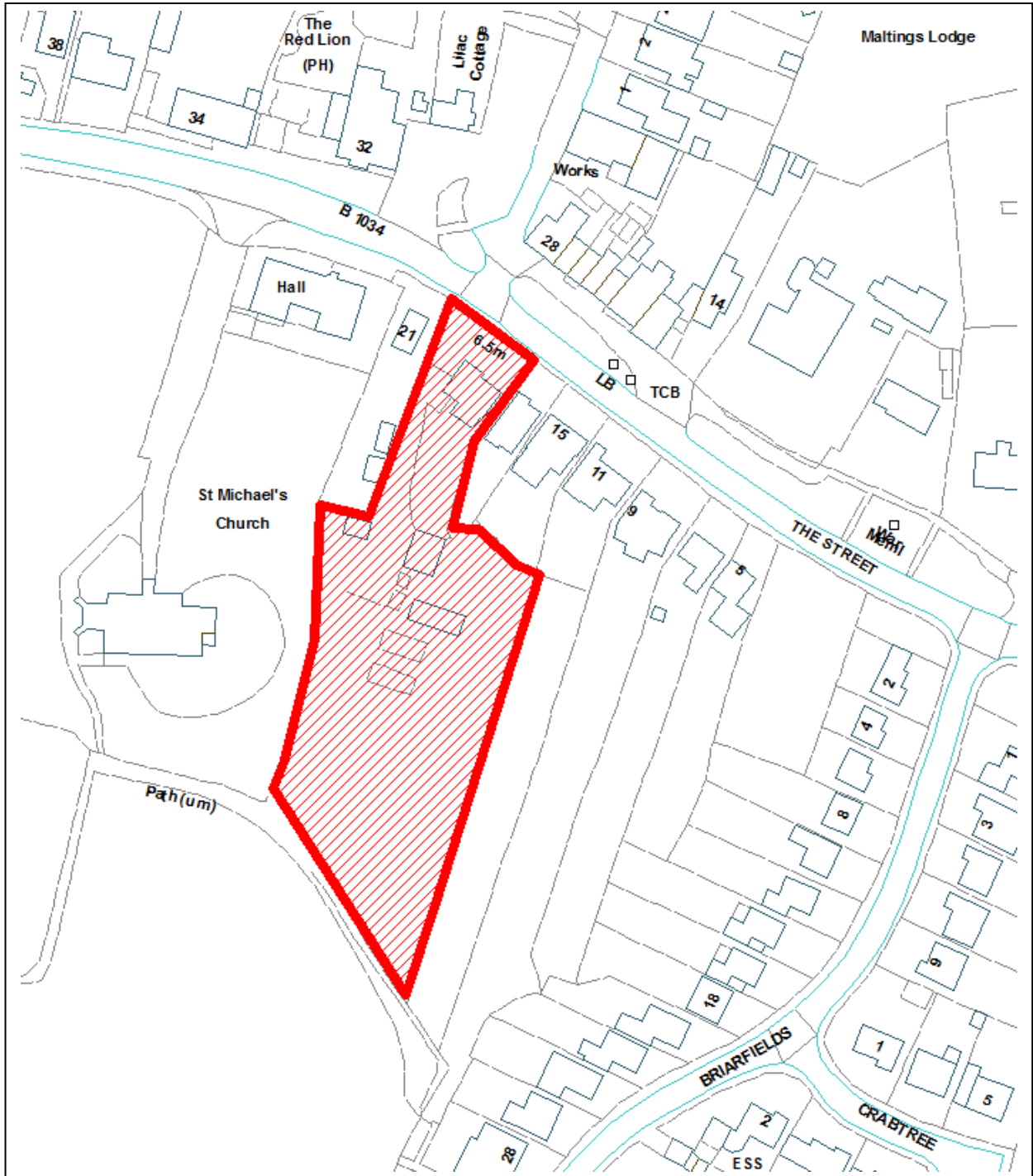


PLANNING COMMITTEE

11 JUNE 2019

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATION – 19/00120/FUL – TAMARISK, 19 THE STREET, KIRBY LE SOKEN, FRINTON ON SEA, CO13 0EE



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Application: 19/00120/FUL

Town / Parish: Frinton & Walton Town Council

Applicant: Ms Lucille Cowell

Address: Tamarisk, 19 The Street, Kirby Le Soken, Frinton On Sea, CO13 0EE

Development: Construction of 4 Houses & 4 Bungalows including slight alterations to Number 19 The Street.

1. Executive Summary

- 1.1 This application is referred to the Planning Committee as the application site was previously granted approval by the Planning Committee.
- 1.2 The site is situated within the defined settlement limits of Kirby-le-Soken, as defined by the Emerging 2013-2033 Tendring Local Plan Publication Draft, and has an extant planning permission for the erection of ten dwellings. Therefore the principle of development is acceptable.
- 1.3 The proposal represents a form of backland development behind the existing frontage along The Street; however adheres to all of the criteria within the policy.
- 1.4 The site is located within Kirby-le-Soken Conservation Area, and adjacent to Grade II and Grade II* Listed Buildings. However, the development would result in less than substantial harm to these, while there are significant public benefits of eight additional dwellings. The works are therefore in line with Paragraph 196 of the NPPF.
- 1.5 There is sufficient private amenity space for all proposed and existing dwellings, no significant harm to existing amenities or protected trees.
- 1.6 Essex Highways Authority support the scheme subject to conditions, while a Phase 1 Habitat Survey concludes subject to mitigation measures the development is acceptable.
- 1.7 A legal agreement has been completed to account for contributions towards open space and Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

Recommendation: Approval

Subject to the conditions stated in section 8.2.

A legal agreement has been completed to account for contributions towards open space and Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

2. Planning Policy

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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN17 Conservation Areas

EN23 Development Within the Proximity of a Listed Building

EN29 Archaeology

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG13 Backland Residential Development

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP4 Housing Layout

LP8 Backland Residential Development

CP1 Sustainable Transport and Accessibility

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL7 Archaeology

PPL8 Conservation Areas

PPL9 Listed Buildings

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

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

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

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

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the

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

3. Relevant Planning History

03/00652/OUT	New residential development.	Refused	02.07.2003
04/01127/OUT	Proposed re-development of part of 19 The Street etc. with 9 dwellings, garages, road etc	Refused	01.09.2004
05/02063/FUL	Residential development of eight dwellings	Withdrawn	17.02.2006
06/00732/FUL	Residential development. Demolition of existing property and erection of six dwellings.	Withdrawn	27.06.2006
06/01374/FUL	Demolition of existing dwelling house and erection of replacement dwelling together with seven new dwellings.	Withdrawn	19.03.2007
14/01860/OUT	Erection of 4 no. bungalows / houses.	Refused	26.03.2015
16/00500/OUT	Erection of 4 bungalows and 6 houses, following demolition of no.21 The Street and alterations to no.19 The Street	Approved	14.06.2018

4. Consultations

Essex County Council Heritage

The application is for the construction of 4 houses and 4 bungalows including slight alterations to number 19 The Street.

The above concerns land off 19 The Street, in addition to 19 The Street itself. The site is adjacent to the Kirby-le-Soken Conservation Area, within which are located a number of listed buildings and places of special historic interest. It also forms the setting of the Church of St Michael, a Grade II* listed (HE Ref: 1111500) parish church.

Considering a similar scheme has previously been

approved under 16/00500/OUT, I have no objection to the proposal. Whilst "less than substantial harm" to the significance of the aforementioned heritage assets has been identified, this has been deemed modest. Further to this, the harm may be minimised subject to appropriate detailing.

Given the site is adjacent to the conservation area, we would support high-quality development in this situation. As such, should permission be granted, I recommend the following conditions (or similar to that effect) are imposed:

- a) works shall not be commenced until samples of the materials to be used on the external finishes have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and permanently maintained as such;
- b) works shall not be commenced until additional drawings that show details of proposed new windows, doors, eaves, verges and cills to be used by section and elevation at scales between 1:20 and 1:1 as appropriate have been submitted to and approved in writing by the local planning authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such;
- c) all rainwater goods shall be black and of cast metal and permanently maintained as such;
- d) all electrical and telephone services to the development shall be run underground;
- e) details of all hard and soft -landscaping and boundary treatments must be approved in writing by the local planning authority prior to works commencing.

ECC Highways Dept

A site visit has been undertaken and the information that was submitted in association with the application has been fully considered by the Highway Authority.

The proposal is located off The Street which is subject to a 30-mph speed limit. The proposal allows adequate room and provision for off street parking and turning, for the proposed dwellings therefore:

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

1. Prior to the first occupation of the development, the proposed road junction at its bell mouth junction with The Street shall be constructed at right angles to the highway boundary and to the existing carriageway as shown in principle in the Proposed Block Plan, drawing no.096/1 to a carriageway width of 5.5 metres straight for at least the first 10 metres with 2 metre width footway on both sides with the proposed footway to connect to the existing footway at its junction with The Street.

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety and in accordance with Policy DM1 and DM6.

2. Prior to first occupation of the development, the access at its centre line shall be provided with a 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 obstruction above 600mm at all times.

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

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

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

4. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

5. Prior to first occupation of the development the size 3 vehicular turning facility shown in principle in the Block Plan, drawing no. 096/1 shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

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

6. Prior to first occupation of the development vehicle parking shall be provided in accordance with the EPOA Parking Standards as shown in principle in the Proposed Site Plan, drawing no.096/1 constructed ready for use. The vehicle parking area and associated turning area shall be retained in the agreed form at all times.

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

in accordance with Policy DM8.

7. All single garages should have a minimum internal measurement of length 7 metre x 3 metres and all double garages should have a minimum internal measurement of 7metre x 5.5 metres.

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

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

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

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

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

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

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

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

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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

**Essex County Council
Archaeology**

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

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 within the core of the historic settlement at Kirby le Soken and immediately adjacent to the Conservation Area. The proposal lies adjacent to a Grade II* listed building, the parish Church of St. Michael, which dates to the 14th/ 15th century. The site of Kirby Hall lies to the west of the Church which is often characteristic of a medieval settlement pattern. Buildings opposite the site date from the 16th century and there is potential for evidence relating to the medieval or earlier settlement of the area within the development site.

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.

3. 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.

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.

If you have any questions about this advice, please do not hesitate to contact me.

Historic England

Thank you for your letter of 31 January 2019 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

5. Representations

- 2.1 Frinton and Walton Town Council recommend refusal as the proposal is backland development, will overdevelop the site, be located opposite a busy junction and will have a narrow drive.
- 2.2 There have also been two letters of objection received, with the following comments:
 1. Over-development;
 2. Will result in flood issues; and
 3. Inadequate access.
- 2.3 Two letters of support have also been received, highlighting that the revised scheme with two less dwellings will result in less impact to neighbours and the church adjacent.

6. Assessment

Site Context

- 2.4 The application site is land to the south of 19 The Street, which is located on the southern end of The Street within the parish of Kirby-le-Soken. The site is currently in a neglected state, with a number of outbuildings and overgrown areas mixed with areas laid to grass. The character of the wider area is urbanised with built development, predominantly in the form of residential properties, however The Red Lion public house is located to the north-west and adjacent to the west is St Michael's Church, a Grade II* Listed Building. The site falls adjacent to, but outside of the eastern edge of the Kirby-le-Soken Conservation Area, which runs directly to the north and west of the site.
- 2.5 The site falls within the Kirby-le-Soken Settlement Development Boundary within the Emerging 2013-2033 Tendring Local Plan Publication Draft but outside of the Saved Tendring Local Plan 2007.

Planning History

- 2.6 Under planning reference 14/01860/FUL, planning permission was refused for the erection of four dwellings on this site due to a lack of impact assessment to the Kirby-le-Soken Conservation Area and adjacent Grade II* Listed Building. Further, there were issues that the applicant did not own or control sufficient land to provide the proposed access with adequate visibility splays and would deprive the existing dwelling of its vehicular access and off street parking facilities.
- 2.7 Under planning reference 16/00500/OUT however, planning permission was granted by the Planning Committee for the erection of ten dwellings (four bungalows and six houses) following the demolition of Number 21 The Street and alterations to Number 19 The Street. This decision was issued 14 June 2018 and is therefore extant and subject to a successful reserved matters application can be implemented regardless of the determination of this application.

Proposal

- 2.8 This application seeks planning permission for the erection of eight residential dwellings; four will be bungalows and four will be houses.
- 2.9 The proposal will also include alterations to Number 19 The Street, by removing the side extension that serves a garage/utility room.

Principle of Development

- 2.10 The site is situated within the defined settlement limits of Kirby-le-Soken, as defined by the Emerging 2013-2033 Tendring Local Plan Publication Draft. Further, the site has an extant planning permission for the erection of ten dwellings on this site (planning reference 16/00500/OUT). Therefore the principle of residential development in this location is acceptable subject to the detailed considerations as set out below.

Backland Development

- 2.11 The development involves the construction of eight dwellings in a 'backland' location to the rear of the established residential frontage along The Street. With regards to Policy HG13 of the 2007 Local Plan (and echoed in policy LP8 of the draft Local Plan), it states proposals for the residential development of backland sites must comply with the following criteria:

- i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;
- ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;
- iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;
- iv. the proposal does not involve "tandem" development using a shared access;
- v. the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;
- vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and
- vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.

2.12 The main problems that can arise as a result of backland development include undermining the established character of an area (especially if similar schemes were to be repeated elsewhere in a locality); dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings.

2.13 There must also be proper means of access to backland development, which is safe and convenient for both drivers and pedestrians, with a turning area where necessary to avoid the need for vehicles to reverse onto a public highway. A proposed access should avoid excessive disturbance or loss of privacy to neighbouring residents through, for example, an access drive passing unreasonably close to an adjoining dwelling. The likely frequency of use by vehicular traffic and the suitability of the access for service vehicles and the emergency services will also be relevant material considerations.

2.14 In respect of the policy criteria noted above the development is considered to meet the requirements as follows;

- i. the site is located within a defined settlement boundary in the emerging local plan; however is not designated for any particular use;
- ii. the plans show that the private amenity areas for all plots will meet the requirements of Policy HG9. While the proposal will result in some loss of 19 The Street's existing amenity area, it will still meet the minimum standards. Further, there is sufficient off-street parking for all dwellings, while the layout has been designed in such a way to ensure significant distance to the nearest neighbouring properties.
- iii. the private access would be located to the north-western corner of the site, off The Street. While there are neighbouring properties to each side of this access, it is important to note that this site has an extant permission for ten dwellings from the same access point, and therefore this proposal will result in less noise disturbances due to fewer comings and goings.

- iv. the proposal does not represent a form of 'tandem development' and will not use a shared access.
- v. the site is of a regular shape and would not compromise a more comprehensive development solution.
- vi. the development of the site would not form a hard urban edge to the settlement as there is existing development to the north, east and also a Grade II* Listed Building adjacent to the west. Further, a suitable edge to the less developed boundaries, namely the south and west, can be secured with soft landscaping.
- vii. the development would not set a harmful precedent as the development is not harmful in its own right (particularly given the site has an extant permission for ten dwellings) and each case must be assessed on its own merits.

Design, Layout and Appearance

- 2.15 The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Emerging Plan.
- 2.16 The key differences to the scheme previously approved (reference 16/00500/OUT) is that 21 The Street is to remain in situ, and the number of dwellings proposed will reduce from ten to eight. Therefore, while the scheme will result in minor alterations to 19 The Street by removing the side extension serving a garage/utility room, the street scene along The Street will be broadly similar to that existing.
- 2.17 As per the previous consent on this site, the main access drive is set adjacent to the boundary with the church grounds and leads to the rear of the site where it provides vehicular access to the majority of the proposed dwellings. In terms of the dwellings' design, it is considered there is a good mixture of different types, all of a good standard that incorporate features to break up their bulk, including the use of chimneys, front gables, brick plinths and canopies. These features, and the overall design, is considered to be a welcome addition in this important location adjacent to Kirby-le-Soken Conservation Area and the Grade II* Listed Building.
- 2.18 Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three or more bedrooms should be a minimum of 100sqm. The submitted plans demonstrate that this is achieved for all eight dwellings as well as 19 The Street.

Heritage Impact

- 2.19 Paragraph 193 of the National Planning Policy Framework (2019) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 196 of the National Planning Policy Framework (2019) states less than substantial harm to a designated heritage asset should be weighed against the public benefits of the proposal.
- 2.20 Policy EN17 of the Adopted Local Plan states that development should look to either preserve or enhance the character and appearance of a conservation Area. The sentiments of this are carried forward within Policy PPL8 in the Emerging Local Plan.
- 2.21 Policy EN23 of the Adopted Plan states that development within the proximity of a Listed Building that would adversely affect the setting of a Listed Building, including group value

and long distance views, will not be permitted. The sentiments of this policy are carried forward within policy PPL9 of the Emerging Plan.

- 2.22 Whilst it is acknowledged the site falls adjacent to the Kirby-le-Soken Conservation Area, it is important to assess the impacts the development may cause to the areas setting, as well as to the setting of the adjacent Grade II* Listed Building. The Kirby-le-Soken Conservation Area Review does reference this western section of the area, stating "*there is a sense of identity and enclosure . . . this is the product firstly of the restriction of views out of the village by virtue of mature tree planting to the south and topography to the north and south . . . Secondly there is a significant bend in The Street at its most important point where the churchyard entrance lies opposite the Red Lion. The latter with attractive older properties on either side lie on the outside of the bend, are important in views in either direction and effectively define the heart of the Conservation Area.*" However, due to the development being sited to the rear of existing built form along The Street, and that the layout has been designed in such a way to reduce the impact it is considered it will not significantly harm this existing character.
- 2.23 In respect of the impact to St Michael's Church, adjacent to the west, the appraisal explains "*the church has a substantial tower, but this is more obvious in longer views from the west and is comparatively reticent within the village.*" Therefore, development in relative close proximity to this building will not harm the existing important views of the building.
- 2.24 The Council's Historic Environment consultant has stated, following consultation, that given there has been a similar scheme previously accepted on this site they raise no objections subject to conditions relating to the submission of external material details and window details. Further conditions relating to rainwater goods being black and of cast metal, and all electrical and telephone services being run underground are recommended to be added as informatives.
- 2.25 Therefore, there are public benefits of eight additional dwellings, and the development would result in less than substantial harm to the Kirby-le-Soken Conservation Area and to the setting of the adjacent Grade II and Grade II* Listed Buildings, and in line with Paragraph 196 of the National Planning Policy Framework (2019) is therefore acceptable.

Impact to Neighbouring Amenities

- 2.26 Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 2.27 While it is acknowledged there will naturally be a degree of impact to neighbouring properties to the north-east and north-west of the site, there is good separation distance that ensures there will be no loss of light and that the development will not appear imposing. Further, the two plots (1 and 2) located to the rear of neighbouring boundaries are to be single storey, thereby further reducing their impact and also ensuring no degree of overlooking. Moreover, the layout has been designed in such a way to ensure there will be no direct overlooking between the future occupants of the new dwellings.

Highway Impacts

- 2.28 Essex Highways Authority, following consultation, have stated they have no objections subject to conditions relating to the proposed road junction, visibility splays, no unbound materials, no discharge of surface water, the vehicular turning facility and a construction method statement. Further conditions requesting cycle parking provision and a Residential Travel Information Pack were requested; however due to the plots being of a sufficient size

to accommodate cycle parking and it being a minor development, it would not be reasonable to request these conditions.

- 2.29 Adopted Parking Standards state a dwelling with two or more bedrooms should have provision for two parking spaces with minimum measurements of 5.5m x 2.9m or a garage, if being relied upon as one of the parking spaces, minimum internal dimensions of 7m x 3m. The submitted plans demonstrate this is achieved for all eight dwellings as well as 19 The Street.

Landscape and Tree Impacts

- 2.30 Policy EN1 of the adopted Local Plan and Policy PPL3 in the emerging Local Plan seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement.
- 2.31 The site is currently used as a mix of garden land with a small amount of commercial activity. Development is not considered to have a significant impact in terms of landscape and public views of the site are to a certain extent restricted. Although a number of trees will be removed to facilitate development these are not protected. A protected oak tree will remain unaffected by the proposed development. Although there is some incursion into root protection areas for a small number of trees this is considered unlikely to cause the trees significant or permanent harm. Details of new landscaping and tree planting are recommended to be attached as a condition to this decision.

Ecology

- 2.32 Policy EN6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 2.33 The applicant has submitted a revised version of a Phase 1 Habitat Survey due to the length of time between the previous survey submitted within 16/00500/FUL. The survey concludes that subject to a number of mitigation measures the development will be acceptable. A condition will be attached to this decision to ensure these mitigation measures are adhered to.

Legal Obligations

- 2.34 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".
- 2.35 There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton and Kirby, and any additional development will increase demand on already stretched play areas. The nearest play area is Halstead Road, Kirby, approximately 0.8 miles away. The site is well used by the local community and would struggle to cope with any additional usage. Therefore, it is felt a contribution towards play is justified and relevant to the planning application, and will be used to improve the current play facilities at Halstead Road.
- 2.36 A completed unilateral undertaking has been provided to secure this legal obligation and to ensure compliance with saved policy COM6.

Habitats Regulation Assessment

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

7. Conclusion

- 2.39 The proposed development is considered to comply with policy contained within the NPPF, the adopted Local Plan and emerging Local Plan policy contained within the Publication Draft document and is therefore recommended for approval.

8. Recommendation

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

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per dwelling
Open Space	Contribution will be used towards providing improved facilities at the nearest play area Halstead Road, Kirby

2.41 Conditions and Reasons

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans, drawing numbers 096/1a, 096-2, 096-3, 096/4, 096-5, 096-6, 096/8, 096-9, 096/10, and the documents titled 'Site Location Plan', 'Phase 1 Habitat Survey', 'Great Crested Newt Assessment', 'Arboricultural Report' and 'Planning Statement'.

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

- 3 Prior to the first occupation of the development, the proposed road junction at its bell mouth junction with The Street shall be constructed at right angles to the highway boundary and to the existing carriageway as shown in principle in the Proposed Block Plan, drawing no.096/1 to a carriageway width of 5.5 metres straight for at least the first 10 metres with 2 metre width footway on both sides with the proposed footway to connect to the existing footway at its junction with The Street.

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

- 4 Prior to first occupation of the development, the access at its centre line shall be provided with a 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 obstruction above 600mm at all times.

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

- 5 No unbound materials shall be used in the surface treatment of any proposed vehicular access within 6 metres of the highway boundary.

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

- 6 There shall be no discharge of surface water onto the Highway.

Reason - To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

- 7 Prior to first occupation of the development the size 3 vehicular turning facility shown in principle in the Block Plan, drawing no. 096/1a shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

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

- 8 Prior to first occupation of the development vehicle parking shall be provided in accordance with the EPOA Parking Standards as shown in principle in the Proposed Site Plan, drawing no.096/1a constructed ready for use. The vehicle parking area and associated turning area shall be retained in the agreed form at all times.

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

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

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

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.

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

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

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

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

- 12 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.

Reason - 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.

- 13 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.

Reason - 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.

- 14 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 - 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.

- 15 No development shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction of the first floor extension have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development unless otherwise agreed, in writing, at a later date with the Local Planning Authority.

Reason - The application relates to land adjacent to a listed building and conservation area and therefore suitable external facing and roofing material are necessary in order to preserve and enhance the historic character and integrity of that building.

- 16 Before any work is commenced drawings to a scale of not less than 1: 20 fully detailing the new windows, rooflights, doors and their surrounds to be used and indicating; materials, cross sections for glazing bars, sills, heads etc at a scale of 1:20, method of opening and method of glazing shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be installed/carried out in complete accordance with the approved details.

Reason - The application and is adjacent to both a listed building and conservation area and therefore such details are necessary in order to preserve and enhance the historic character and integrity of the area.

- 17 No development hereby permitted shall commence until the specific requirements of paragraphs numbered 1 to 3 below have been satisfied. If unexpected contamination is found after development has commenced, no further development shall be carried out on that part of the site affected by the unexpected contamination until the requirements of paragraph 4 have been complied with in relation to such contamination.

1. Site Characterisation - An investigation and risk assessment, in addition to any assessment provided within the planning application, shall be carried out in accordance with a scheme to assess the nature and extent of any contamination of the site. The investigation and risk assessment shall be undertaken by a competent person and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority. The report shall include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments; and

(iii) an appraisal of options for remediation and a proposal with preferred option(s). This appraisal shall be conducted in accordance with the Environment Agency Model Procedures for the Management of Land Contamination (CLR 11).

2. Submission of Remediation Scheme - A detailed Remediation Scheme to ensure that the site is suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works of remediation to be undertaken, remediation objectives and criteria, timetable of works and related site management procedures. The scheme

shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the use of the land after remediation.

3. Implementation of Approved Remediation Scheme - The Remediation Scheme required under paragraph 2 above shall be carried out in accordance with its terms prior to the commencement of any works of construction on site unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority shall be notified in writing a minimum of two weeks prior to commencement of the remediation scheme works of the date that the remediation works will commence. Following completion of the measures identified in such approved Remediation Scheme, a verification report to demonstrate the effectiveness of the remediation carried out shall be submitted to the Local Planning Authority.

4. Reporting of Unexpected Contamination - In the event that contamination is found which was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall then be undertaken in accordance with the requirements of paragraph 1 above and, where remediation is necessary, a new Remediation Scheme shall be prepared in accordance with the requirements of paragraph 2 above and submitted to and approved in writing by the Local Planning Authority. Following completion of all necessary measures identified in such Remediation Scheme as may be approved, a verification report shall be submitted to and approved in writing by the Local Planning Authority in accordance with paragraph 3 above. In such circumstances, no further works of development shall be carried out to that part of the site until such time as the requirements of this paragraph have been satisfied.

Reason - To ensure that any risks (to future users of the land and neighbouring land and to controlled waters, property and ecological systems) arising from any land contamination are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 18 The recommendations as highlighted within Section 6 of the submitted Phase 1 Habitat Survey shall be implemented prior to occupation of the dwelling and maintained in perpetuity thereafter.

Reason - In order to enhance the development of the site for local wildlife.

2.42 Informatives

All rainwater goods should be black and of cast metal, and all electrical and telephone services to the development should be run underground.

Positive and Proactive Statement

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 2.43 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and

C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

2.44 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.

2.45 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.

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

Human Rights

2.47 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.

2.48 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).

2.49 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

2.50 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

2.51 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. **Background Papers**

None.