

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	28/05/19
Planning Development Manager authorisation:	AN	30/5/19
Admin checks / despatch completed	<del>AN</del> SB	31/05/19. 31/05/19.

**Application:** 19/00550/OUT **Town / Parish:** Frinton & Walton Town Council  
**Applicant:** HCS (Essex) Ltd  
**Address:** Land West of 182 Thorpe Road Kirby Cross  
**Development:** Residential development of 6no. bungalows.

### 1. Town / Parish Council

Frinton and Walton Town Council      REFUSAL - encroachment of the green gap between Kirby Cross and Thorpe-le-Soken. Outside the village envelope and not sustainable. One driveway for 6 dwellings is unacceptable.

### 2. Consultation Responses

Essex County Council  
Heritage

The application is for residential development of 6 bungalows.

The two heritage assets relevant to this application include:

Grade II listed Blue House Farmhouse (List Entry ID: 1317215); and Grade II listed White Ladies (List Entry ID: 1111538).

I do not support this application. The application is not compliant with Paragraph 189 of the NPPF. The heritage information provided is very limited and does not fully understand, or assess, the significance of the heritage assets affected or the impact of the proposal. Given the proximity of the building, which certainly falls within the setting of designated heritage assets, it would be useful if a Heritage Statement consulted Historic England guidance The Setting of Heritage Assets.

Based on the limited information provided, I consider the application to cause considerable less than substantial harm to at least one designated heritage asset. The proposal will irreversibly alter the setting of Blue House Farmhouse, developing the agrarian landscape in its immediate environs which it was likely constructed to service. This will alter the manner in which the designated heritage asset is appreciated, experienced and understood.

The proposal will also remove the agrarian landscape directly in front of White Ladies, this will also result in fundamental change to the setting of the designated heritage asset which is considered harmful. Further assessment of the heritage asset will ascertain if there is a historic connection in land use to the proposal site (which would typically be included in a Heritage Statement).

Paragraph 193 of the NPPF states:

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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The proposal will adversely impact the setting and significance of designated heritage assets. This is considered to cause considerable less than substantial harm and as such paragraph 196 of the NPPF is relevant to this application.

Should this application be refused and a future proposal be brought forward, I recommend pre-application advice in sought.

ECC Highways Dept

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

1. Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 4.5 metres by 90 metres to the West and 4.5 metres by 43 metres to the East,, 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.

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

2. Prior to occupation of the development appropriate vehicular turning facilities, in accordance with current policy standards, shall be provided 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

3. Prior to the first occupation of the development the provision of the following:

A 1.4 metre wide footway on the East side of the new access into the development along the site frontage tapering down to a width of 1.2 metres to tie into the existing footway on Thorpe Road that currently ends in the vicinity of the property called 'Bluehouse Farm'; including the relocation/ replacement electricity poles/ lighting, removal of redundant kerbing and replacement with upstand kerb and footway, relocation/ replacement of signage and associated drainage works.

Reason: to facilitate access to the local footway network, bus stop and public rights of way network in the interests of accessibility and highway safety.

4. Prior to the first occupation of the development, the proposed road junction at its bell mouth with Thorpe Road shall be constructed at right angles to the highway boundary and to the existing carriageway shall be provided with 6.0m. radius kerbs returned to an access road carriageway to a carriageway width of 5.5 metres straight for at least the first 6 metres.

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.

5. Prior to the first occupation of the development, the proposed shared access road shall be constructed at a width of 6 metres with 2 metre wide footway running on both sides of the radius kerbs at its junction with Thorpe Road to the satisfaction of the Local Planning Authority.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

6. Prior to commencement of development, details of the estate road (including layout, a 500mm overhang strip, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety in accordance with Policy DM7.

7. All dwellings shall be provided with 2 parking spaces, and 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.

8. Any single garages should have a minimum internal measurement of 7m x 3m and any double garages should have a minimum internal measurement of 7m x 6m.

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.

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 and Policy DM 1

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

Informative 1: All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

Informative 2: For the ditch running across the site frontage; under Section 23 of the Land Drainage Act 1991, prior written consent from the Environment Agency is required to build any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.

Informative 3: There shall be no discharge of surface water onto the highway.

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.

Informative 4: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester  
CO4 9YQ

### **3. Planning History**

N/A

### **4. Relevant Policies / Government Guidance**

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

- EN11A Protection of International Sites European Sites and RAMSAR Sites
  - EN23 Development Within the Proximity of a Listed Building
  - HG1 Housing Provision
  - HG9 Private Amenity Space
  - 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)
- CP1 Sustainable Transport and Accessibility
  - HP5 Open Space, Sports & Recreation Facilities
  - LP1 Housing Supply
  - LP2 Housing Choice
  - LP3 Housing Density and Standards
  - LP4 Housing Layout
  - PPL3 The Rural Landscape
  - PPL4 Biodiversity and Geodiversity
  - PPL9 Listed Buildings
  - SP1 Presumption in Favour of Sustainable Development
  - SPL1 Managing Growth
  - 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.

## **5. Officer Appraisal**

### Site Description

The application relates to land to the west of 182 Thorpe Road, within the parish of Kirby Cross. The site is located to the west of the village of Kirby Cross and currently comprises grassed land that is largely open. The eastern boundary is however more defined, with a number of trees and a hedgerow. Number 182 Thorpe Road is a Grade II Listed Building known as Blue House Farmhouse, while there are a number of other residential properties to the south (including another Grade II Listed Building known as White Ladies) and further to the east which help to characterise the area as semi-rural.

The site is outside of a recognised Settlement Development Boundary within the Saved Tendring District Local Plan (2007) and is adjacent to the Kirby Cross Settlement Development Boundary within the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

### Description of Proposal

The proposal seeks outline planning permission with all matters bar layout reserved for six detached dwellings. Other reserved matters, namely access, appearance, landscaping and scale, would be reserved for a future detailed application.

### Site History

Under planning reference 19/00550/OUT, a recent application for one detached dwelling to the east of 182 Thorpe Road was refused. The reason for refusal focussed on the loss of the existing open undeveloped domestic curtilage of the Grade II Listed Building and isolation from other properties. Further, a contribution towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) was not provided.

### Assessment

#### 1. Principle of Development

The application site lies outside of a Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

The National Planning Policy Framework 2019 (NPPF) requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

At the time of this report, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.

Therefore, at this present time, it is correct to assess the housing development on its merits against the sustainable development objectives set out within Paragraph 8 of the NPPF. The economic objective, a social objective and an environmental objective are therefore assessed below.

Economic:

It is considered that the proposal for six dwellings would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants using the nearby facilities, and so meets the economic arm of sustainable development.

#### Social:

In respect of the social dimension, the site lies on the edge of the Kirby Cross settlement. There is a bus stop located approximately 100 metres to the east, while there are footpaths and street lighting connecting the site to the main hub of Kirby Cross and beyond. Further to that, within nearby appeal decision APP/P1560/W/15/3141169 (Land between 176 & 178 Thorpe Road, Kirby Cross dated 22 March 2016) the Inspector stated the following: "*The Council accepts that developing the appeal site would be economically and socially sustainable. I agree, not least given its location in reasonable proximity to services and facilities in West Kirby, Walton and Frinton-on-Sea.*" Therefore the site in question is considered to be socially sustainable.

#### Environmental:

The environmental role is about contributing to protecting and enhancing the natural built and historic environment and is assessed below.

#### Impact upon setting of Listed Buildings:

Paragraph 189 of the National Planning Policy Framework (2019) states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.

Paragraph 193 of the National Planning Policy Framework (2018) 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 that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

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.

The application is for six residential dwellings to the west of the Grade II Listed Building, Blue House, 182 Thorpe Road.

The Grade II Listed building was formerly a farmstead and has historically been isolated and set within an immediate area of open ground. The undeveloped nature of the domestic curtilage of the Listed building, which has been a situation since the farmhouse was constructed, is in contrast to the later ribbon development along Thorpe Road. This setting of Blue House Farm, particularly its undeveloped domestic curtilage and isolation from other properties, contributes to the significance of the listed building. The proposed dwellings will irreversibly alter the setting of Blue House Farmhouse by developing the agrarian landscape in its immediate environs, and will alter the manner in which the designated heritage asset is appreciated, experienced and understood. Further, to the south of the application site is White Ladies, a Grade II Listed Building. The proposed six dwellings will also remove the agrarian landscape directly to the front of this Listed Building, resulting in a fundamental and harmful change to the setting of the designated heritage asset.



Furthermore, a Heritage Statement which fully assesses the significance of the heritage assets impacted by the proposal has not been provided; in particular it should have been ascertained if there is a historic connection in land use between the application site and 'White Ladies'.

As such the development of this site will cause harm to the setting and significance of the two Grade II listed buildings, both designated heritage assets, while there are no significant public benefits as a result of six dwellings that can outweigh this identified harm.

The proposed development therefore fails to adhere to the wishes of the above national and local policies.

## 2. Layout, Design and Appearance

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

The application is in outline form only, with all matters bar layout reserved for a future application. The proposed layout shows six detached dwellings, each located in a largely linear fashion, albeit with the plots gradually being set back working eastwards. The layout shows the dwellings will be parallel to the existing development to the southern side of Thorpe Road, and will follow a similar form of ribbon development. The development to this northern section of Thorpe Road is far more sporadic, with large open plots in the immediate proximity. However, within nearby appeal decision APP/P1560/W/15/3141169 (Land between 176 & 178 Thorpe Road, Kirby Cross dated 22 March 2016) permission was allowed for eight dwellings in a development that represented a higher density than that being proposed within this application. Given this, it would not be reasonable to object to the proposed layout.

The description for the application indicates the dwellings are to be single storey. It is noted there are examples of single storey and two storey properties in the nearby area so there is no set character to necessarily adhere to.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of one bedroom should be a minimum of 50 square metres, for a dwelling with two bedrooms there should be a minimum of 75 square metres, and for a dwelling of three bedrooms or more there should be a minimum of 100 square metres. While the plans do not indicate the number of bedrooms for each dwelling, the layout shows the above measurements can comfortably be adhered to.

## 3. Impact upon Neighbouring Amenities

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).

Whilst the application is in outline form, layout is one matter to be assessed. Officers consider there is sufficient spacing and separation to both existing and proposed dwellings to ensure the amenities of nearby properties or the future occupiers of the proposed dwellings will not be detrimentally harmed.

## 4. Highways

Essex County Council as the Highway Authority has been consulted on the application and has stated that they have no objections subject to conditions relating to visibility splays, vehicular turning facilities, the provision of a new footway, the proposed road junction being constructed at

right angles, a shared access road, the submission of details of the estate road and the submission of a Construction Method Statement.

Furthermore, the Council's Adopted Parking Standards require that for dwellings with two or more bedrooms that a minimum of two parking spaces are required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. The submitted plans do not indicate the number of bedrooms, but do show there to be sufficient space to provide the necessary parking for all new dwellings.

## 5. Tree Impacts

Paragraph 170 of the National Planning Policy Framework (2019) states planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and should protect and enhance valued landscapes.

Policy EN1 of the Saved Local Plan states the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced. Any development which would significantly harm landscape character or quality will not be permitted. The sentiments of this policy are carried forward within Emerging Local Plan Policy PPL3.

The land is being used for agricultural purposes and there are no trees or significant vegetation on the application site. The boundary with the property immediately to the east is demarcated by an established hedge comprising of primarily Hawthorn in the section closest to the highway with Hornbeam, Field Maple and Dog Rose present in the section of hedge set back further from Thorpe Road.

Within the curtilage of 182 Thorpe Road there are several established trees, close to the boundary with the application site, comprising Sycamore and Hornbeam. These trees feature prominently in the public realm and make a positive contribution to the appearance of the area. The agent for the application was asked to provide a plan showing the Root Protection Areas (RPA's) of these trees, and overlaid with the Block Plan, in order to show that the development proposal could be implemented without causing harm to the trees which are important landscape features; however this information was not provided.

It has therefore not been properly demonstrated that the proposed development can be constructed without causing harm to trees that make a positive contribution to the local area, and therefore fails to accord with the above national and local policies.

## 6. Legal Obligations

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".

There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton and Kirby, with the nearest play area in Kirby in Halstead Road. Due to the size of the development a contribution towards play is both relevant and justified, with the contribution received to be used to provide new safety surface around the current equipment.

This application has not come with a correctly completed unilateral undertaking for a contribution towards play and formal open space facilities.

No such contribution has been included within this application nor has any justification for the lack of a contribution and therefore this scheme does not comply with Policy COM6.

## 7. Habitats Regulation Assessment

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public

interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Hamford Water SPA and Ramsar site, mitigation measures will need to be in place prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to 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.

### Other Considerations

Frinton and Walton Town Council have objected to the application as the site is outside of the village envelope, is not sustainable and one driveway for six dwellings is not acceptable.

In answer to this the sites sustainability and being located outside of a settlement development boundary have been addressed within the main body of the report, while the access point is not a consideration within this application and would be subject to a future detailed application.

There has also been five letters of objection received, which are summarised below:

1. Harm to areas character; (assessed in the main body of the report)
2. Impact to local infrastructure; (there is not considered to be significant harm as a result of six new dwellings)
3. Loss of privacy; (assessed in the main body of the report)
4. Insufficient parking provision; (assessed in the main body of the report)
5. Set a precedent for other similar developments;
6. Loss of wildlife; (the site is currently open with limited amounts of vegetation)
7. Site is outside of a settlement boundary; (assessed in the main body of the report) and
8. Harm to the adjacent listed building (assessed in the main body of the report)

## **6. Recommendation**

Refusal.

## **7. Reasons for Refusal**

- 1 Paragraph 189 of the National Planning Policy Framework (2019) states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.

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designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Policy EN23 of the Tendring District Local Plan (2007) 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 Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The application is for six residential dwellings to the west of the Grade II Listed Building, Blue House, 182 Thorpe Road.

The Grade II Listed Building was formerly a farmstead and has historically been isolated and set within an immediate area of open ground. The undeveloped nature of the domestic curtilage of the Listed Building, which has been a situation since the farmhouse was constructed, is in contrast to the later ribbon development along Thorpe Road. This setting of Blue House Farm, particularly its undeveloped domestic curtilage and isolation from other properties, contributes to the significance of the listed building. The proposed dwellings will irreversibly alter the setting of Blue House Farm by developing the agrarian landscape in its immediate environs, and will alter the manner in which the designated heritage asset is appreciated, experienced and understood. Further, to the south of the application site is White Ladies, a Grade II Listed Building. The proposed six dwellings will also remove the agrarian landscape directly to the front of this Listed Building, resulting in a fundamental and harmful change to the setting of the designated heritage asset.

Furthermore, a Heritage Statement which fully assesses the significance of the heritage assets impacted by the proposal has not been provided; in particular it should have ascertained if there is a historic connection in land use between the application site and 'White Ladies'.

As such the development of this site will cause harm to the setting and significance of the two Grade II listed buildings, both designated heritage assets, while there are no significant public benefits as a result of six dwellings that can outweigh this identified harm.

The proposed development therefore fails to adhere to the above national and local policies.

- 2 Paragraph 170 of the National Planning Policy Framework (2019) states planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and should protect and enhance valued landscapes.

Policy EN1 of the Saved Local Plan states the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced. Any development which would significantly harm landscape character or quality will not be permitted. The sentiments of this policy are carried forward within Emerging Local Plan Policy PPL3.

The land is being used for agricultural purposes and there are no trees or significant vegetation on the application site. The boundary with the property immediately to the east is demarcated by an established hedge comprising of primarily Hawthorn in the section closest to the highway with Hornbeam, Field Maple and Dog Rose present in the section of hedge set back further from Thorpe Road.

Within the curtilage of 182 Thorpe Road there are several established trees, close to the boundary with the application site, comprising Sycamore and Hornbeam. These trees feature prominently in the public realm and make a positive contribution to the appearance of the area. A plan was requested showing the Root Protection Areas (RPA's) of these trees, and overlaid with the Block Plan, in order to show that the development proposal

could be implemented without causing harm to the trees which are important landscape features; however this information was not provided.

It has therefore not been properly demonstrated that the proposed development can be constructed without causing harm to trees that make a positive contribution to the local area, and therefore fails to accord with the above national and local policies.

- 3 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Hamford Water RAMSAR and SPA, mitigation measures will need to be in place prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to 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.

- 4 Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

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".

There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton and Kirby, with the nearest play area in Kirby in Halstead Road. Due to the size of the development a contribution towards play is both relevant and justified, with the contribution received to be used to provide new safety surface around the current equipment.

No such contribution has been included within this application nor has any justification for the lack of a contribution and therefore this scheme does not comply with Policy COM6.

## **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 reason(s) for the refusal, approval has not been possible.