

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	11/06/19
Planning Development Manager authorisation:	AN	13/6/19
Admin checks / despatch completed	KNE SB	14/06/19. 14/06/19.

Application: 19/00117/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr and Mrs Byatt

Address: Part Garden of 4 Halstead Road Kirby Cross

Development: Erection of 5 detached dwellings with associated garage/parking served by a private drive from adjacent development site, and relocation of plots 10 and 11 of 16/01446/DETAIL.

1. Town / Parish Council

Frinton and Walton Town Council REFUSAL - overdevelopment of the site, garden grabbing and back land development.

Dangerous access onto the highways.

2. Consultation Responses

ECC SuDS Consultee Thank you for your email which provides Essex County Council (ECC) with the opportunity to assess and advise on the proposed surface water drainage strategy for the aforementioned planning application. As the Lead Local Flood Authority (LLFA) ECC provides advice on SuDS schemes for major developments. ECC have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council, and their appointed consultants, looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- o Non-statutory technical standards for sustainable drainage systems
- o Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- o The CIRIA SuDS Manual (C753)
- o BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the planning application and the associated documents which accompanied the planning application, we have identified that this is not a major application and therefore we shall have no further comments accordingly in relation to this application. However please consider the following conditions/informatives if relevant for the development;

Conditions

1) Surface Water Drainage - Prior to the commencement of the development details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:

- o Run-off from the site is limited to greenfield rates for a storm event that has a 100% chance of occurring each year (1 in 1 year event).

- o The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
- 2) Sustainable Urban Drainage- Prior to commencement of the development no works shall take place until a detailed Sustainable Urban drainage scheme as specified in the Essex Sustainable Drainage Systems Design Guide 2014 submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation of the development and should include and not be limited to;
 - 3) Maintenance - Prior to first occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed in writing, by the local planning authority.
 - 4) Flood Risk Assessment - The measures contained within the Flood Risk Assessment a copy of which was submitted with the planning application and forms part of this permission, shall be fully implemented and in place prior to the first occupation of the development and retained as such thereafter.
 - 5) Flood Risk Assessment 2 - Notwithstanding the details set out in the Flood Risk Assessment submitted with the application, no development shall be undertaken unless and until a method statement has been submitted to and approved in writing by the local planning authority detailing:-
 - o The flood mitigation measures to be incorporated into the detailed design of the dwelling(s)
 - o The provision for the installation of removable flood barriers such as flood boards to form part of the detailed design of the doorways and vents/airbricks on the exterior of the property
 - o The provision of non-return valves to all sanitary outlets to prevent backflow during a flood
 - 6) Flood Mitigation Measures - Development shall not be commenced until a scheme for the provision and implementation of flood mitigation measures has been submitted to and approved in writing, with the Local Planning Authority. The scheme shall be carried out in its entirety before the development is first occupied and constructed and completed in accordance with the approved plans and in line with the Environment Agency documents "Improving the flood performance of new buildings" and "Prepare your property for flooding: A guide for householders and small businesses."

Informatives

- o In discharging condition X where the surface water drainage strategy proposes the use of soakaways the details of the design and the results of a series of percolation tests carried out upon the subsoil in accordance with DG 365 2016. You are advised that in order to satisfy the soakaway condition the following details will be required:- details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, and whether it will be rubble filled.
- o In discharging condition X where discharging to a watercourse the proposed scheme shall include details of the destination and discharge rates equivalent to "greenfield runoff" and no greater than 5 litres per second up to and including a 1 in 100 year rainfall event. This is typically achieved by installing some form of attenuation on site e.g. temporary storage.
- o In discharging condition X if discharging to a watercourse, ditch, stream etc, the applicant must demonstrate that the system is an appropriate point of discharge for the site i.e would take existing pre-

development flows. If not then further information/assessment will be required to determine the suitability of the system to convey the proposed flows and volumes of water. Evidence will be required that the development will not increase risk to others. If the proposed discharge point is outside the development site then the applicant will need to demonstrate that the necessary permissions and or agreements to achieve connection are possible.

- o Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.
- o No works to infill ditches should be undertaken without prior consent from Essex County Council. You should also be aware that works of this nature may require planning permission
- o No raising of land in flood plains should take place without prior consent from Essex County Council. You should also be aware that works of this nature may require Environment Agency consent if in a flood plain.
- o The removal of land drains likely to interrupt the flow may require prior consent from Essex County Council on 08457430430 or floods@essex.gov.uk. You should also be aware that works of this nature may require planning permission

Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- o Sequential Test in relation to fluvial flood risk;
- o Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- o Safety of the building;
- o Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- o Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, ECC advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Should further correspondence be required, please contact the SuDS team directly using the below details.

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 and as indicated on the proposed layout plan a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority 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.

2. 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

3. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

4. 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.

5. All single garages should have a minimum internal measurement of 7m x 3m and all double garages should have a minimum internal measurement of 7m x 5.5m

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.

6. The 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.

7. 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.

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:: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority."

Informative 2: 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 or by post to:

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

3. Planning History

98/01329/FUL	Proposed replacement garage with hobbies room within roof space	Approved	17.11.1998
99/01752/FUL	Revised siting of replacement garage approved under TEN/98/1329	Approved	09.02.2000
06/00335/FUL	Proposed roof alterations and extensions.	Approved	24.04.2006
16/00100/FUL	Residential extension and alterations	Approved	18.03.2016

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

HG1 Housing Provision

HG6 Dwelling Size and Type

HG7 Residential Densities

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

LP4 Housing Layout

LP8 Backland Residential Development

PPL4 Biodiversity and Geodiversity

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 (2019) 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 site is land to the east of 4 Halstead Road, within the parish of Kirby Cross. The surrounding area is urban in nature, with significant built form to all sides. Predominantly this built form is residential properties, including development adjacent along Orchard Gardens currently under construction, but there are examples of other commercial units, particularly to the south-west.

The site falls within the Kirby Cross Settlement Development Boundary within the Emerging 2013-2033 Tendring Local Plan Publication Draft but outside of the Saved Tendring Local Plan 2007.

Description of Proposal

This application seeks full planning permission for the erection of five detached dwellings, and will also see the relocation of plots 10 and 11 of previous planning permission 16/01446/DETAIL.

Site History

Under planning reference 15/00278/OUT, outline planning permission was granted for the erection of 28 dwellings following the demolition of Numbers 32 and 52 Frinton Road. This site is directly adjacent to the east of the application site subject of this decision.

Under planning reference 16/01446/DETAIL full details for these 28 dwellings were agreed. The site is currently under construction at the time of the site visit, with a number of the dwellings built and now occupied.

Assessment

1. Principle of development

The site is situated within the defined settlement limits of Kirby Cross as defined within the Emerging Publication Draft (2017) and therefore the principle of residential development in this location is acceptable subject to the detailed considerations as set out below.

2. Backland Development

The development involves the construction of five detached dwellings in a 'backland' location to the rear of the established residential frontage along Frinton Road and Halstead Road. 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.

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.

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.

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

(i) - the site is within the defined settlement boundary within the emerging local plan and is not designated for any particular use;

(ii) - the dwellings are proposed to be within the existing garden area of 4 Halstead Road, however all five dwellings and the two relocated dwellings will have private garden areas in excess of 100sqm, which will accord with the requirements of saved policy HG9. Further there is sufficient off-street parking, whilst the access will be a continuation of the site previously approved adjacent to the east.

(iii) - the private access would be located on the eastern section of the site, which will be a direct continuation of the scheme to build 28 dwellings and which is currently under construction at the time of the site visit. Essex County Council Highways do not object to the proposal. In terms of the impact upon residential amenities to the adjacent neighbours to the east of the application site, while there will be additional noise associated with the comings and goings of five new dwellings it is not considered this will be significantly harmful to warrant a reason for refusal.

(iv) - the layout proposed does not demonstrate tandem development.

(v) - the site is of a regular shape and would not compromise a more comprehensive development solution as it will be in connection with the existing larger development to the east.

(vi) - the development of the site would not form a hard urban edge to the settlement as the land is surrounded by residential development on all sides.

(vii) - the development would not set a harmful precedent as the development is not harmful in its own right and each case must be assessed on its own merits. The development of the land to the east, approved under planning permission 16/01446/DETAIL, and land to the north for 240 dwellings under planning permission 15/01234/OUT, sets the tone for residential development of this backland form and ensures the construction of additional dwellings in this location would not adversely impact upon the overall character of the locality.

3. 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 proposed five dwellings are to be sited beyond the existing frontage behind Halstead Road and Frinton Road; however as previously stated the character of the surrounding area has previously been amended following planning permission for 28 dwellings adjacent to the east and 240 dwellings to the north. The siting of the dwellings will see a continuation of the aforementioned approved development. It is noted that plots 2-5 appear more cramped than some of the surrounding development; however the dwellings have been designed to incorporate more of their bulk to the rear and have also set the garages far back, thereby reducing the level of built form to the front elevations and in doing this, the cramped nature is reduced. Given this, and that the adjacent development (notably plots 12-22) is of a similar density, on balance the harm identified is not significant enough to warrant a reason for refusal.

There were also concerns with the siting of the garage for Plot 10, in that it appeared prominent and demonstrated an uncomfortable relationship with Plot 1, and could also be harmful to Plot 1 occupants' future amenities. Accordingly, following discussions with the agent for the application, the design of the garage has been amended to a hipped roof, while it has also been set further forward to be more in-keeping. Given these amendments, and that future occupiers of the proposed dwelling will be aware of the arrangement prior to purchasing, it is not considered the harm is significant enough to justify a reason for refusal.

In terms of the design of the five proposed dwellings, they are to be detached, single storey and each serving three bedrooms. Whilst the design is not considered to be of exceptional standard, it is acknowledged effort has been made to break up the bulk of the proposal with the inclusion of bay windows, front gables and window details. Further, there is to be a good use of materials that add variety to the scheme. This, and that the design is in-keeping with the plots previously approved adjacent to the east, mean that on balance the design of the proposed dwellings are not harmful enough to warrant a reason for refusal.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The submitted plans show this is comfortably achievable for the five new dwellings and for the two relocated dwellings.

4. Impact upon Neighbours

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).

There are a number of neighbouring properties potentially impacted upon as a result of the proposed additional dwellings. The neighbouring property most impacted upon is Number 4 Halstead Road, which is set back approximately 50m from the main building line along Halstead Road. However, upon site inspection it was clear that the site is heavily vegetated to its boundaries and therefore given this and that there is an approximate separation distance of 5m to the nearest proposed dwelling, the additional five dwellings will not significantly harm existing amenities in respect of loss of light, appearing imposing or resulting in any degree of overlooking.

There are also a number of neighbouring properties along Halstead Road to the west and Frinton Road to the south potentially impacted upon. The Essex Design Guide states that where new development backs on to the rear of existing housing, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and new dwellings should not encroach within 15m to an existing rear boundary. The submitted plans show minimum approximate separation distances of 7m to the rear boundaries and 40m to the dwellings themselves for the dwellings to the west. For the dwellings to the south along Frinton Road Plots 1 and 10 are located relatively close to the boundary, approximately 3m and 4m respectively. However, while this fails to adhere to the above requirements the previously approved scheme shows Plot 10 only 5m from the boundary, and there are separation distances to the dwellings of a minimum of 15m. Given this, on balance the proposal will not significantly harm these neighbours existing amenities to the extent a reason for refusal would be reasonable.

The proposed dwellings would further impact properties approved and currently under construction to the east. The submitted plans however show that Plot 10 of the previous scheme would be relocated further south alongside Plot 9 to accommodate the lengthened access point. This also ensures there is sufficient separation distances to all of the previously approved plots, resulting in a neutral impact to any future occupiers' amenities.

5. Highways

Essex Highways Authority have stated they have no objections subject to a number of conditions relating to a vehicular turning facility, a Construction Method Statement, boundary planting, cycle parking provision and the submission of a Residential Travel Information Pack. However, the latter two conditions will not be imposed as all dwellings have sufficient amenity space and garages to account for bicycles, while the scheme is not large enough to justify the information pack.

However, the Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 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 demonstrate a number of garages that accord with the above requirements, whilst there is also sufficient room in front of the garages and to the side of the dwellings for additional parking and therefore this criterion has been met.

6. Tree and Landscapes Impact

The application site comprises of the residential curtilage of 4 Halstead Road, Kirby Cross. There are several large trees of the land that would be likely to be affected by the development proposal. In order to show impact of the development proposal on the trees on the land the applicant has provided a detailed Arboricultural Impact Assessment (AIA).

The report shows the extent of the constraint that the trees are on the development potential of the land. It identifies those trees that would need to be removed in order to facilitate the development proposal and the way that retained trees will be physically protected during the construction phase of any development that may be granted planning permission.

T1 Beech, T2 Silver Birch and T3 Hawthorn are small attractive specimens although their positions are such that their amenity value is only low. T5 Willow is a stump and has no value. T5 and T6 are both Willows with compression forks and occluded bark which both will compromise the structural integrity and viability of the trees. They are not viable in the medium term. T4, T8, T9 and T10 are over mature Monterey Cypress that are showing defects typical of trees of this age and species. If the development of the land is likely to go ahead then the amenity of the locality would be best served by the planting of new trees, of a more desirable species, rather than retaining the existing over ' mature specimens. The trees contained in G5 do not merit retention.

On balance none of the trees on the application site meets the criteria under which they merit formal legal protection by means of a tree preservation order.

The applicant has submitted a plan showing the positions of new trees that will be planted if planning permission were to be granted. The trees are appropriate species and will improve on the amenity value of the existing trees that will need to be cut down to facilitate the development.

Details of other soft landscaping will be secured by condition.

7. 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".

The Council's Public Open Space team has stated 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 0.3 miles away. Therefore, due to the significant lack of play facilities in the area 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.

A completed unilateral undertaking has been provided to secure this legal obligation and to ensure compliance with saved policy COM6.

8. Habitats Regulation Assessment

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.

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.

9. Affordable Housing

In its initial form the site exceeded 0.5 hectares in size. Given this, and that there is a high demand for housing in the Kirby Cross area, the Council requested that two of the new dwellings be granted as council housing. However, following discussions with the agent for the application, the site area has been amended and reduced to 0.49 hectares. A request for affordable housing is therefore no longer required.

Other Considerations

Frinton and Walton Town Council recommend refusal on the grounds the proposal represents overdevelopment, is a form of backland development and had a dangerous access onto the highway.

In answer to this, the site layout and that it is a form of backland development have been addressed within the main body of the report. In relation to the access, the site will utilise a previously approved access point, while Essex Highways Authority do not object.

Conclusion

The site falls within the settlement boundary for Kirby Cross within the Emerging Local Plan, and therefore the principle of residential development on this site is acceptable. The proposal meets all of the backland policy criteria, while there are no design, layout or amenity concerns that are considered sufficient to warrant a reason for refusal. The impact to trees is considered acceptable, while Essex Highways Authority do not object. Following the completion of a legal agreement, financial contributions for open space and RAMS are secured, and therefore the application is recommended for approval.

6. Recommendation

Approval.

7. Conditions

- 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, titled 'Proposed Layout Revision B', 'Proposed Floor Plans', 'Proposed Elevations Plots 1, 2 & 3', 'Proposed Elevations Plots 4 & 5', 'Proposed Floor Plans Plots 10 & 11', 'Proposed Elevations Plots 10 & 11', 'Garage Details – Sheet 1 Revision A', 'Garage Details – Sheet 2', 'Arboricultural Impact Assessment and Preliminary Method Statements', 'Tree Planting Scheme', 'Material Schedule' and the untitled Site Location Plan.

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

- 3 Prior to occupation of the development and as indicated on the proposed layout plan dated and scanned 3 May 2019 a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority 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.

- 4 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.

- 5 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

- 6 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.

- 7 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.

- 8 Prior to the commencement of any above ground works, a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the Local Planning Authority. The approved boundary treatments shall be implemented before the dwelling hereby permitted is occupied and retained in this approved form in perpetuity.

Reason - In the interests of protecting the semi-rural landscape and in the interests of visual amenity.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority."

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.