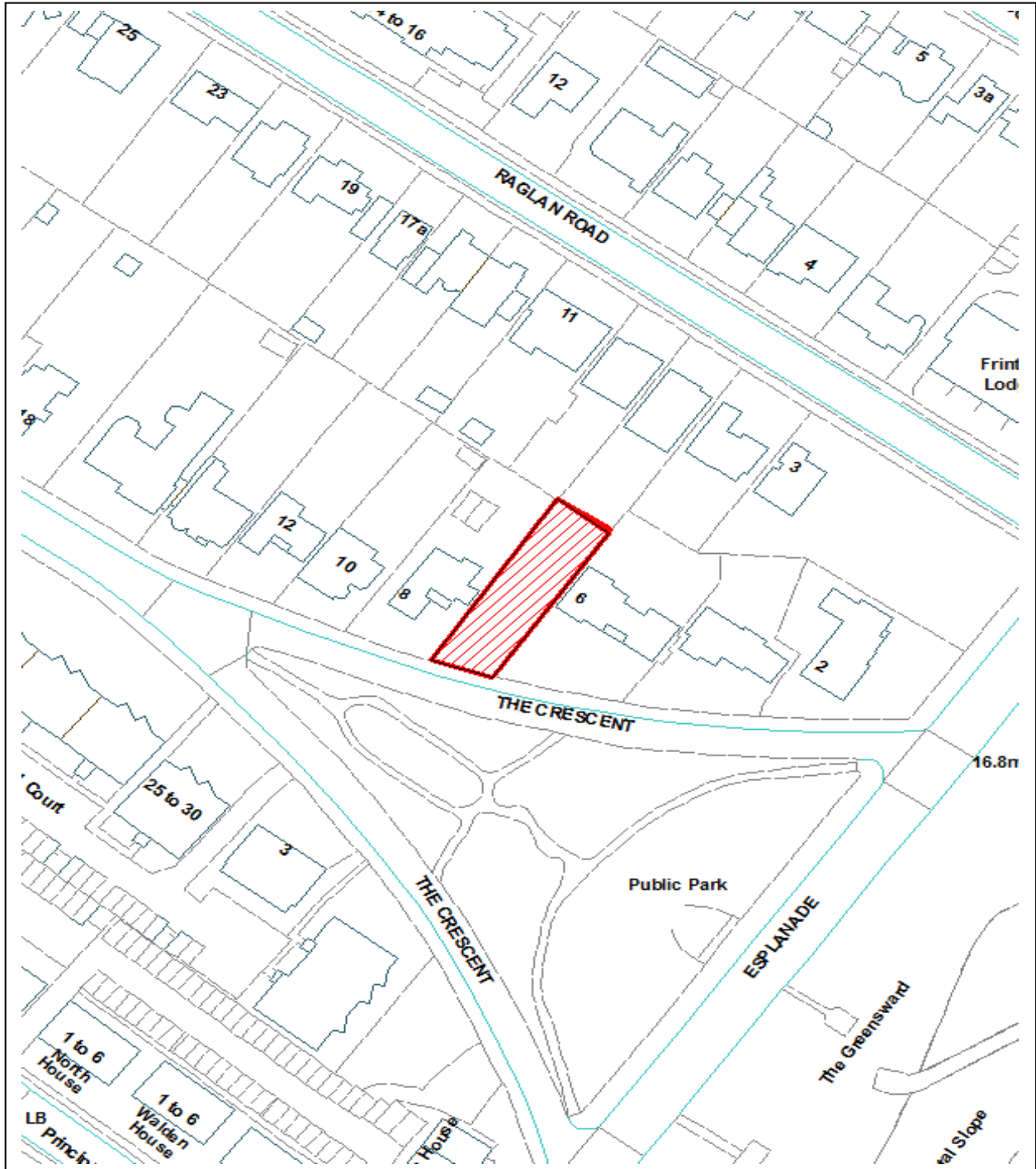


PLANNING COMMITTEE

2 JULY 2019

REPORT OF THE HEAD OF PLANNING

**A.3 PLANNING APPLICATION – 18/02012/FUL – LAND ADJACENT 8 THE CRESCENT, FRINTON-ON-SEA, CO13 9AP**



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**Application:** 18/02012/FUL

**Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mrs Peterson

**Address:** Land adjacent 8 The Crescent Frinton On Sea CO13 9AP

**Development:** Proposed dwelling.

## 1. Executive Summary

- 1.1 The application has been referred to planning committee by Councillor Turner as the proposal is considered to be garden grabbing, not in keeping, not maintaining a heritage asset and it reduces the heritage asset by changing its setting in the street.
- 1.2 The application seeks planning permission for the erection of a 5 bed dwelling to the land to the side of 8 The Crescent, Frinton on Sea.
- 1.3 The site lies within the Settlement Boundary for Frinton on Sea, as established in the Tendring District Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 1.4 The scale, layout and appearance of the dwelling are acceptable and will not result in any material harm to the character of the area. The dwelling is served by ample private amenity space and the proposal complies with Policy HG14. Due to the dwelling being staggered and set back in the plot the proposal will not cause impact upon the neighbouring amenities. Further, the proposal will not represent a highway safety risk and complies with Frinton and Walton Conservation Area Appraisal.
- 1.5 A legal agreement has been completed to account for contributions towards open space and Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

### **Recommendation:**

That the Head of Planning be authorised to grant planning permission for the development subject to:-

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

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG14 Side Isolation

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

EN17 Conservation Areas

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

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

LP1 Housing Supply

LP2 Housing Choice

LP4 Housing Layout

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

PPL8 Conservation Areas

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Frinton and Walton Conservation Area Character Appraisal (March 2006)

### **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**

00/01050/FUL	Three detached houses with double garages	Approved	25.01.2001
01/01608/TCA	To remove Eucalyptus tree from the front garden	Approved	02.10.2001
18/02012/FUL	Proposed dwelling.	Current	

#### 4. Consultations

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 application creates a new vehicle access for the new dwelling, providing adequate room and provision for off street parking and turning, for the proposed dwelling therefore:

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

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

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1.

2. Prior to occupation of the dwelling the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3 metres (3 metres minimum - 6 metres maximum), shall be retained at that width for a minimum of 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1

3. 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

4. The single garage should have a minimum internal measurement of 7m x 3m

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

5. 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

6. All off street car parking shall be in precise accord with

the details contained within the current Parking Standards.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8.

7. 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.

8. 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.

9. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

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: Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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,  
53 The Crescent,  
Colchester.  
CO4 9YQ.

## 5. Representations

- 5.1 Frinton and Walton Parish Council recommend the application for refusal as the proposal is considered too great a size, mass and bulk in a conservation area, out of keeping with the street scene and would ruin the setting of the current property within its grounds. The Town Council is vehemently against garden grabbing.
- 5.2 7 letters of support have been received stating the following:
- Proposal will be harmonious within the street scene
  - In keeping with the surrounding homes in style form and mass
  - Tidy up the site
  - More new builds needed within the gates
- 5.3 *The material planning considerations raised above are addressed in the main report below.*

## 6. Assessment

### Site Context

- 6.1 This application refers to the land adjacent to Number 8, The Crescent, Frinton on Sea. Number 8 is a detached house located to the northern half of the site, adjacent to number 10 with a driveway leading to a large two storey garage between. The application site is laid to lawn with a hedgerow across the frontage and a line of sycamore trees to the side boundary. Number 6 is a contemporary dwelling with a horizontal form. Opposite the application site are the triangular public gardens between the two roads of The Crescent.

### Proposal

- 6.2 The application seeks planning permission for the erection of a detached dwelling with a new vehicular access. The dwelling will be set back in the plot with two parking spaces to the front of the application site.

### Principle of Development

- 6.3 The site is located within the Frinton-on-Sea Settlement Development Boundary as defined within the adopted District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond (June 2017).
- 6.4 Saved Policy HG3 of the adopted Tendring District Local Plan 2007 states that within defined development boundaries of towns and villages, residential development will be permitted provided it satisfies amenity, design, highway and sustainability criteria, as appropriate, and can take place without material harm to the character of the local area. These sentiments are carried forward within draft Policy SPL2 of the emerging Tendring District Local Plan 2013-2033 and Beyond (June 2017).
- 6.5 As the site is within the defined settlement limits and has not been safeguarded for an alternative use, it is in principle acceptable for residential development subject to the detailed considerations below.

### Design, Layout and Appearance

- 6.6 Paragraphs 127 and 170 of the National Planning Policy Framework (2019) states that developments should function well and add to the overall quality of the area, be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, be sympathetic to local character and history, including the surrounding built environment

and landscape setting and planning policies and decisions should contribute to and enhance the natural and local environment by, inter alia, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.

- 6.7 Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan 2007 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design. Policy SPL3 of the emerging Tendring District Local Plan Publication Draft 2017 carries forward these sentiments stating that all new development must make a positive contribution to the quality of the local environment and protect or enhance local character.
- 6.8 The plans submitted show that the 5 bedroom dwelling will be detached, two and a half storey and accessed via The Crescent. The dwelling is set back within the plot and the layout has been altered to reduce the dwellings prominence within the street scene and the impact upon both neighbouring boundaries.
- 6.9 The proposed dwelling is of a similar scale and appearance to surrounding dwellings whilst having its own identifiable character. The character of the area is typically one and a half and two storey detached dwellings. The bay window, canopy porch, single storey side extension and rear gable projection are all characteristics of the area and contribute positively to the overall design and appearance of the proposed dwelling. It is therefore considered that the proposed dwelling is in keeping with the immediate area.
- 6.10 The materials proposed; render/brick, red clay tiles are materials which are considered to be in keeping with the character of the area. A condition will be imposed for samples of the materials to be used in the construction of external surfaces of the development to be submitted to and approved in writing by the Local Planning Authority.
- 6.11 Dwellings within the Crescent range in size. The proposed dwelling would occupy a footprint similar to that of surrounding dwellings. As a result the proposed building would not represent a cramped form of development detrimental to the street scene, as it would provide important gaps to both sides in excess of the minimum standards set out within saved Policy HG14.
- 6.12 This application reduces the extent of the site to include only the garden area to the south of the dwelling, wherein it will be seen as an infill to the street scene. The remainder of the applicants' site would be retained as garden to the host property. 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 100sqm. The submitted plans demonstrate that this is achieved for the proposed dwelling and retains sufficient for number 8 The Crescent.

#### Impact on Residential Amenity

- 6.13 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).
- 6.14 The proposed dwelling will be visible to the neighbouring dwelling number 6 The Crescent. However, the proposal complies with Policy HG14 of the Tendring District Local Plan 2007 as it retains 2 metres to the neighbouring boundary. The dwelling has been designed to incorporate a single storey element to the south eastern elevation to reduce any impact upon number 6. Due to the staggered nature of the dwelling, with obscure glazed windows to the first and second floor windows to reduce overlooking, which will be secured by a



condition and there being no windows on the flank wall of number 6, it is considered that the proposed dwelling will not cause any impact upon the neighbouring amenities of number 6 The Crescent.

- 6.15 The proposed dwelling will be visible to the neighbouring dwelling number 8 The Crescent. The proposal retains 2 metres to the neighbouring boundary which complies with Policy HG14 of the Tendring District Local Plan 2007. Due to the proposed dwelling being staggered and set back from the neighbouring dwelling, it is considered that the first and second floor window serving both landings will cause some overlooking onto the neighbouring amenities, however due to the window not serving habitable rooms, it would not be significant enough to warrant a reason for refusal.
- 6.16 Whilst the rear elevation first floor windows will have views further to the rear of the neighbouring garden, this is considered to be a slight improvement to amenities as views are more likely to be away from the areas most likely to be occupied.

#### Heritage Impact

- 6.17 Saved Policy EN17 of the adopted Tendring District Local Plan 2007 states that development within a Conservation Area must preserve or enhance the character or appearance of the Conservation Area. These sentiments are carried forward in the emerging Local Plan through Policy PPL8.
- 6.18 The application site is located within the Frinton and Walton Conservation Area, a planning and heritage statement has been provided to justify how the proposal will either preserve or enhance the area. The Frinton and Walton Conservation Area Appraisal states that the Crescent is a pleasant drive of individual detached houses of all shapes and sizes. The materials are red brick, white or cream painted render, some hanging tiles with tiles also used as creasing. The important elements are the visual separation of houses. The plan demonstrates that that plot width is 14.5 metres to the front of the application site and narrows to 14 to the rear of the application site. The proposal maintains the visual separation as mentioned within the appraisal, therefore complying with the Conservation Area Appraisal and therefore preserving the setting of Frinton and Walton Conservation Area.

#### Highway Safety/Parking

- 6.19 Essex Highways Authority have been consulted on this application and have no objection to the dwelling subject to a number of conditions; no unbound materials, vehicular access to be constructed at right angles, no discharge of surface water onto the highway, garage dimensions, parking space dimensions, off street parking, cycle parking, residential travel information pack and reception and storage of materials. However, the parking space dimensions and the garage dimensions will not be imposed as the spaces and garage comply with Essex Parking Standards, the plot is of a sufficient size to accommodate cycle parking, a residential information travel pack will not be imposed as the application is for a minor development and the reception and storage of materials will be imposed as an informative. The plans show that the proposal is in accordance with the proposed vehicular access condition and also demonstrates that off street parking can be achieved in accordance with Essex Parking Standards. The conditions to be imposed on this application will be no unbound materials and no discharge of surface water onto the highway.
- 6.20 Further, Adopted Car Parking Standards state that there should be minimum parking provision for a dwelling with two or more bedrooms for two parking spaces measuring 5.5m x 2.9m or, if being relied upon for one of the parking spaces, a garage should have

minimum internal measurements of 7m x 3m. The plans submitted demonstrate this is achievable for the proposed dwelling.

#### Trees and Landscaping

- 6.21 The application site currently forms part of the curtilage of the host property. The garden is mainly lawn with a hedge on the front boundary and a few trees on its eastern and northern boundaries.
- 6.22 Towards the front of the site, on the eastern boundary, adjacent to 6 The Crescent there are 4 Sycamore trees that are the most visually prominent trees on the land. Although they make a positive contribution to the appearance of the public realm they are not such valuable specimens that they merit protection by means of a tree preservation order. They are shown as retained and as Sycamore are usually tolerant of root pruning should not be adversely affected by the development proposal.
- 6.23 In order to implement the development it would be necessary to fell 3 trees on the eastern boundary adjacent to the flank wall of 6 The Crescent. The trees are a Yew, a Horse Chestnut and a Bay. None of them make such a contribution to the character or appearance of the conservation area that they merit retention or protection by means of a tree preservation order.
- 6.24 The hedge on the front boundary has a pleasant softening impact on the application site and the immediate environs. It is clear a short section will need to be removed in order to construct a vehicular access however a condition will be imposed to secure its retention or replacement with similar species if it were to be removed. A condition will also be imposed to plant at least one new tree in the area between the hedge and the new car parking spaces for visual amenity.

#### Legal Obligations

- 6.25 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".
- 6.26 There is currently a deficit of 14.12 hectares of equipped play & Open Space in Frinton, Walton & Kirby. The nearest area of public open space is Crescent Gardens located directly opposite the proposed development. This area is well used by members of the public. This area is in need of the pathways being up dated.
- 6.27 Due to the current deficit, a contribution is both relevant and justified to this application, with the money to be spent to improve the pathways at Crescent Gardens, Frinton.

#### Habitats Regulation Assessment

- 6.28 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.
- 6.29 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. Therefore, there is 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**

- 7.1 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**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

<b>CATEGORY</b>	<b>TERMS</b>
Financial contribution towards RAMS.	£122.30 for the one dwelling proposed
Open Space	Contribution will be used towards the improvement of the pathways at Crescent Gardens, Frinton

**8.2 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 plan: Drawing No. PTC - 01  
  
Reason - For the avoidance of doubt and in the interests of proper planning.
- 3 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6 metres of the highway boundary.  
  
Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety
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
5. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), the two

windows proposed on the northern elevation shown on Drawing No. 103 - Scanned 15 September 2017 shall be non opening and glazed in obscure glass and shall thereafter be permanently retained in this approved form.

Reason - To protect the privacy and amenities of the occupiers of adjoining property.

6. No above ground works shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Details shall include the colour and materials of the window headers and tile hanging to rear bay. Development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of visual amenity as insufficient information has been submitted within the application for full consideration of these details.

7. Prior to the first occupation of the proposed dwelling, at least one tree will be located in the area between the hedge and the proposed car parking spaces. Details of the species, precise location, method of planting and its future maintenance shall be submitted concurrently with the hard and soft landscaping scheme and shall be approved in writing by the Local Planning Authority in consultation with the Tree and Landscaping Officer.

Reason - To preserve the fabric and integrity of the highway and in the interests of highway safety.

8. 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. The existing hedge along the front boundary of the application site shown on drawing no. PTC - 01 Revision C shall be retained or replaced with similar species. Any trees or shrubs 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 ensure the existing front boundary hedge is retained or replanted with similar species in the interests of the character of the conservation area.

9. Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions or alterations to the dwelling or its roof, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions and/or building(s) which shall previously have been submitted to and approved, in writing, by the local planning authority.

Reason - In the interests of visual amenity and to protect existing and future resident's privacy

### 8.3 Informatives

#### 1 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.

#### 2 Legal Agreement Informative - Open Space/Play Space Contribution

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

#### 3 Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

#### 4 Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

#### 5 Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

#### 6 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.

### 9. Additional Considerations

#### Public Sector Equality Duty (PSED)

9.1 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:

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

- 9.3 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
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 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.
- 9.6 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.
- 9.7 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

- 9.8 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.
- 9.9 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).
- 9.10 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

- 9.11 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.
- 9.12 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 applicable