

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	25/06/19
Planning Development Manager authorisation:	TF	03/07/19
Admin checks / despatch completed	AP	3/7/19

*AME*

**Application:** 19/00715/FUL **Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mrs Kinloch

**Address:** 1 Holly Tree House Third Avenue Frinton On Sea

**Development:** Demolition of existing garage block and replacement with new three bedroom dwelling.

### 1. Town / Parish Council

Frinton and Walton Town Council No comment.

### 2. Consultation Responses

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority. Going by the information submitted it appears to be identical to the previous application 18/00923/FUL submitted in 2018.

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

As far as can be determined from the submitted plans the proposal fails to provide off street parking spaces with dimensions in accord with current Parking Standards which is likely to lead to vehicles being left parked in the access route or adjacent highway causing conditions of obstruction or congestion contrary to highway safety and Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

The proposal if permitted would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality.

As far as can be determined from the submitted plans the proposal would lead to intensification of use of the site without sufficient or adequate turning facilities for both dwellings. The proposal would therefore give rise to vehicles reversing into the highway to the detriment of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

#### Notes

1. All single garages should have a minimum internal measurement of 7m x 3m as per the Essex Design Guide.

2. There is insufficient space proposed to accommodate 2 parking spaces of width 2.5 metres by 5 metres width recommended in the EPOA Parking Standards for the host and proposed dwelling.
3. In addition it should be ensured that vehicles can enter and leave the highway in a forward gear. As per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) 6 metres should be provided behind each parking space to allow for manoeuvring.
4. The preference would be a for a shared vehicle access for the host dwelling with either the proposed dwelling or no. 2 Third Avenue rather than creating a brand new third vehicle access.

The Highway Authority may consider a revised proposal that includes off-street parking in accordance with the current Parking Standards.

Essex County Council  
Heritage

The application is for demolition of existing garage block and replacement with new three bedroom dwelling.

The site is located in the Frinton Conservation Area.

I do not support this proposal and consider this form of development inappropriate within the conservation area. The proposal presents an over development of the site which is incongruous to the rhythm of development which the conservation area appraisal describes as a planned layout with wide streets and large house plots enclosed by the railway and the sea.

The conservation area appraisal goes onto state with regard to the impact of new development:

The historical houses in the Avenues tend to be individual, often asymmetrical, designs set in large plots. This character is easily eroded by poorly designed alterations and extensions, by the subdivision of plots and by the construction of similar and undistinguished house types. These issues are not restricted to the Avenues: tall modern buildings dominate parts of the Esplanade, while there have been proposals to replace single houses in Frinton Park with flat developments.

Considering the above, the proposal will fail to preserve or enhance the character and appearance of the conservation area and will cause harm to the significance of a designated heritage asset. As such paragraph 196 of the NPPF is relevant.

I do not support this development, as an individual proposal it is considered inappropriate and in the longer term this sets a poor precedent for development in this significant conservation area.

### **3. Planning History**

18/00923/FUL	Demolition of existing garage and replacement with new three bedroom dwelling.	Refused	02.08.2018
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### **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

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites: European Sites and RAMSAR Sites

EN17 Conservation Areas

FW5 'The Avenues' Area of Special Character

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

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

LP3 Housing Density and Standards

LP4 Housing Layout

PPL4 Biodiversity and Geodiversity

PPL8 Conservation Areas

PPL11 The Avenues Area of Special Character, Frinton-On-Sea

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

Local Planning Guidance

### **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 adjacent to the north of 25 Third Avenue, within the Parish of Frinton-on-Sea. The site currently forms part of the curtilage of 1 Holly Tree House, where a detached garage currently sits. The character of the surrounding area is heavily urbanised with residential development, all being detached dwellings on large plots. The site falls within the

Settlement Development Boundary for Frinton-on-Sea within both the Saved Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. The site lies within the Frinton-on-Sea Conservation Area and the Avenues Area of Special Character.

### Description of Proposal

The application seeks full planning permission for the erection of a detached residential dwelling following the demolition of the existing detached garage.

### Site History

Under planning reference 18/00923/FUL the same scheme was refused planning permission. The application was refused on two grounds. Firstly as the site is located within the Frinton and Walton Conservation Area, and "The Avenues" Area of Special Character, it was considered the dwelling would appear narrow, cramped and out of keeping within the street scene. Secondly, the submitted plans failed to demonstrate that there was sufficient provision for off street parking spaces with dimensions in accord with current Parking Standards, likely leading to vehicles being left parked in the access route or adjacent highway causing conditions of danger, obstruction or congestion contrary to highway safety. Further, it was considered the proposal would lead to the intensification of use of the site without sufficient or adequate turning facilities for both dwellings, therefore resulting in the need for vehicles to reverse into the highway, to the detriment of highway safety.

The agent for this application has sought to overcome these previous reasons for refusal within the submitted Planning Statement. This will be addressed in more detail throughout the report.

### Assessment

#### 1. Principle of Development

The site is situated within the defined settlement limits of Frinton-on-Sea as defined by both the adopted Tendring District Local Plan (2007) and 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. Design, Appearance and Layout

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).

Saved Policy FW5 of the Tendring District Local Plan (2007) requires new development in the Avenues to have particular regard to the special character and appearance of the area, including the scale, aspect and design of adjoining buildings. This policy also identifies density as a matter to be taken into account and states that development which would result in a reduction in the spacious character of the area will be refused planning permission. The pre-ample of the policy also goes on to state that as the spacious scale of buildings and extensive plot frontages and sizes contribute to the special character of the Avenues, residential densities that may be suitable for infill housing developments elsewhere will be inappropriate in this area. Well designed infill development on plots at least 15 metres wide may be acceptable in some cases, however new dwellings would need to stand on plots that compare favourably with neighbouring houses, thus requiring frontages of significantly more than 15 metres in many cases to avoid any reduction in the special Arcadian character. The sentiments of this are carried forward within Policy PPL11 within the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposed dwelling is to be detached, two storeys and will be accessed via Third Avenue to the east from an existing access point. The dwelling will measure 7.8m in height, 8.7m in width and 16m in depth. The development also proposes the creation of an additional access point adjacent to the north to serve the existing dwelling.

In terms of the design of the dwelling itself, it is considered to be of good visual merit, incorporating key features to break up the bulk of the proposal, including a front canopy, chimney, good use of traditional materials and a single storey rear element.

Within the submitted Planning Statement, the agent for the application has highlighted that within a previous appeal decision (reference APP/P1560/A/07/2060617 - The Grange, 31 Fourth Avenue, Frinton-on-Sea, dated 4 June 2008) the Inspector stated well-designed infill development on plots at least 15m wide may be acceptable in some cases but that how favourable a development is depends on more than just a numerical approach. On this occasion the Inspector dismissed the appeal due to the restricted nature of the plots width, which was 13.5m. The Planning Statement further notes that 1 & 2 Third Avenue are semi-detached houses, which is rare within The Avenues, and that the site is currently occupied by a sizeable structure. Given this, the agent considers that the proposed development would not result in a loss of spaciousness and would reflect the arrangement between other dwellings in the locality.

While these comments are noted the surrounding area, bar the aforementioned adjacent semi-detached properties, which was previously a single detached property, is dominated by detached residential dwellings with plot widths ranging from 15-30m, and building widths ranging between 12m-16m. The proposed development would see an approximate plot width of just 10.7m and building width of 7.5m, which fails to accord with Policy FW5 of the Adopted Local Plan. Therefore, it is considered that the proposed dwelling on this site will be sited on a plot far narrower than surrounding plots. As a result the Council maintains that the dwelling will appear narrow, cramped and out of keeping within the street scene, to the serious detriment of the areas existing special character.

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 that this will be achieved for both the proposed dwelling and the existing dwelling.

### 3. Heritage Impact

Paragraph 193 of the National Planning Policy Framework (2019) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Paragraph 196 of the National Planning Policy Framework (2019) states less than substantial harm to a designated heritage asset should be weighed against the public benefits of the proposal.

Policy EN17 of the Tendring Local Plan 2007 and Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) state that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area. Accordingly the applicant has submitted a Heritage Statement which has sought to demonstrate that the works involved will not significantly harm the existing Frinton-on-Sea Conservation Area.

As highlighted previously, the character of this section of the Frinton Conservation Area is dominated by large detached residential properties on spacious plots. The site itself is not specifically referenced within the Conservation Area Appraisal for Frinton. However the Council's Historic Environment consultant has stated the development is inappropriate in the conservation area, and will present an overdevelopment of the site which is incongruous to the rhythm of existing development. Therefore a dwelling of a significantly narrower building and plot width will appear incongruous and at odds with the areas existing character, and will therefore fail to preserve the character and appearance of the existing Frinton-on-Sea Conservation Area, thereby failing to accord with above policies.

#### 4. Impact to Residential 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).

There are adjacent neighbours to both the north and south with visibility of the proposed dwelling and therefore have the potential for their existing amenities to be harmed. However, whilst the dwelling is predominantly two storeys there is an approximate separation distance of 1m to each boundary and 3m to each neighbouring property. Further, the dwelling has been designed to reduce to single storey to the rear, thereby reducing how imposing it will appear. It is therefore not considered to significantly harm amenities in respect of loss of light or appearing imposing.

In terms of overlooking, the dwelling has been designed to ensure the only first floor side elevation windows will serve a bathroom and stairwell, both of which are not main habitable rooms and in the case of the bathroom will be obscure glazed. There is one first floor rear elevation window serving a bedroom; whilst it is acknowledged it will have direct views to the rear garden area of the north-facing neighbour, it is also noted that the property is already directly overlooked from its adjacent neighbours and therefore, on balance, there will not be a significant increase in overlooking to warrant a reason for refusal.

#### 5. Tree Impacts

To the front of the existing garage on the southern boundary are two mature Holly trees which make a positive contribution to the character and appearance of the conservation area. To the rear of the garage is a mature evergreen hedge comprising of Leyland Cypress, whilst to the front of 1 Holly Tree House is an overgrown shrub bed containing a Holly and Apple tree. Whilst the trees to the front of the site are prominent features in the street scene the amenity value they provide can be easily replicated, or even improved, with new planting. With regard to the coniferous hedge to the west of the existing garage it does not fall within the scope of legislation by which it can be legally protected.

If permission had been granted then a condition to secure replacement planting for any trees lost to the eastern boundary as part of a wider soft landscaping scheme would be attached to this decision.

#### 6. Highways and Parking

Paragraph 109 of the National Planning Policy Framework (2019) states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy TR7 of the Adopted Local Plan 2007 states that for residential development within town centres and for all non-residential development, the adopted car parking standards will be applied. Outside town centres, variations to the adopted standards for residential development will be considered where local circumstances suggest this to be appropriate.

Within the submitted Planning Statement, the agent for the application has stated that the minimum dimensions are in fact 2.4m x 4.8m and states this is referenced within the Adopted Local Plan 2007. An additional plan is submitted to demonstrate the proposed development meets these requirements. However, the pre-amble of Policy TR7 states "*The Council's off-street vehicle parking standards are contained in the Essex Planning Officers Association's Vehicle Parking Standards document that has been adopted by this Council as Supplementary Planning Guidance.*" This document specifically states that preferred bay size for cars is 5.5m x 2.9m or a minimum bay size only to be used in exceptional circumstances of 5m x 2.5m. Given the previously stated open and spacious character of the surrounding area, it is not a location where it would be considered appropriate for these exceptional circumstances to be engaged.

The Council therefore maintains its position that the Adopted Car Parking Standards state that for a dwelling of two or more bedrooms, provision should be made for a minimum of two parking spaces measuring 5.5m x 2.9m or a garage, if being used as one of the parking space, should have a minimum internal measurement of 7m x 3m.

Essex County Council as the Highways Authority object to the application. The submitted plans fail to demonstrate that there is sufficient provision for off street parking spaces with dimensions in accord with the above current Parking Standards. This is likely to lead to vehicles being left parked in the access route or adjacent highway causing conditions of danger, obstruction or congestion contrary to highway safety, and could also set a precedent for future similar developments. Further, the proposal would lead to the intensification of use of the site without sufficient or adequate turning facilities for both dwellings, therefore resulting in the need for vehicles to reverse into the highway, to the detriment of highway safety.

The proposal therefore fails to accord with the above local and national policies.

#### 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".

There is currently a deficit of 14.12 hectares of equipped play and open space in Frinton, Walton and Kirby. However, it is not considered this development would impact on the current deficit and therefore no contribution is required on this occasion.

#### 8. 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 not commented on the application.

There have also been 14 letters of objection received, with the following concerns:

1. Is too narrow and not in accordance with Policy FW5;
2. Proposal not in-keeping;
3. Not sufficient parking provision;
4. Harm to the Conservation Area;



5. Represents overdevelopment;
6. Impact to highway safety;
7. Harm to neighbouring amenities; and
8. Could set a harmful precedent.

In answer to this, all points have been addressed within the main body of the report above.

## Conclusion

For the reasons set out above, the proposal is considered to represent a harmful addition to the Frinton-on-Sea Conservation Area and will not accord with The Avenues special character. Further, the proposal fails to provide sufficient off-street parking and therefore additionally represents a highway safety risk, while a financial contribution has not been secured for RAMS requirements.. Consequently the application is recommended for refusal.

## **6. Recommendation**

Refusal.

## **7. Reasons for Refusal**

- 1 The National Planning Policy Framework (2019) states that a core planning principle of the local planning authority should include the conservation of heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. The Framework also attaches great importance to the design of the built environment stating that permission should be refused for development that fails to take the opportunities available for improving the character and quality of an area.

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). Policy EN17 of the Tendring Local Plan 2007 and Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) state that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area.

Saved Policy FW5 of the Tendring District Local Plan (2007) requires new development in the Avenues to have particular regard to the special character and appearance of the area, including the scale, aspect and design of adjoining buildings. This policy also identifies density as a matter to be taken into account and states that development which would result in a reduction in the spacious character of the area will be refused planning permission. The pre-ambule of the policy also goes on to state that as the spacious scale of buildings and extensive plot frontages and sizes contribute to the special character of the Avenues, residential densities that may be suitable for infill housing developments elsewhere will be inappropriate in this area. Well designed infill development on plots at least 15 metres wide may be acceptable in some cases, however new dwellings would need to stand on plots that compare favourably with neighbouring houses, thus requiring frontages of significantly more than 15 metres in many cases to avoid any reduction in the special Arcadian character. The sentiments of this are carried forward within Policy PPL11 within the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The application site is located within the Frinton and Walton Conservation Area, and "The Avenues" Area of Special Character where development which would result in a reduction in the spacious character of the area will be refused planning permission.

Currently the surrounding area is dominated by detached residential dwellings with plot widths ranging from 15-30m, and building widths ranging between 12m-16m. The proposed

development would see an approximate plot width of just 10.7m and building width of 7.5m, which fails to accord with Policy FW5 of the Adopted Local Plan. Therefore, it is considered that the proposed dwelling on this site will be sited on a plot far narrower than surrounding plots. As a result the Council maintains that the dwelling will appear narrow, cramped and out of keeping within the street scene, failing to preserve the character and appearance of the Frinton-on-Sea Conservation Area, and will also be detrimental to "The Avenues" Area of Special Character existing special character.

Therefore the proposed development fails to accord with the above policies.

- 2 Paragraph 109 of the National Planning Policy Framework (2019) states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy TR7 of the Adopted Local Plan 2007 states that the adopted car parking standards will be applied. Outside town centres, variations to the adopted standards for residential development will be considered where local circumstances suggest this to be appropriate.

Policy TR1a of the Adopted Local Plan 2007 states proposals for development affecting highways will be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic and to the effects on the transport system including the physical and environmental capacity to accommodate the traffic generated. The sentiments of this are carried forward within Policy SPL3 within the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Adopted Car Parking Standards state that for a dwelling of two or more bedrooms, provision should be made for a minimum of two parking spaces measuring 5.5m x 2.9m or a garage, if being used as one of the parking space, should have a minimum internal measurement of 7m x 3m.

The submitted plans fail to demonstrate that there is sufficient provision for off street parking spaces with dimensions in accord with the above current Parking Standards. This is likely to lead to vehicles being left parked in the access route or adjacent highway causing conditions of danger, obstruction or congestion contrary to highway safety. Further, the proposal would lead to the intensification of use of the site without sufficient or adequate turning facilities for both dwellings, therefore resulting in the need for vehicles to reverse into the highway, to the detriment of highway safety.

The proposal therefore fails to accord with the above 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

**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.