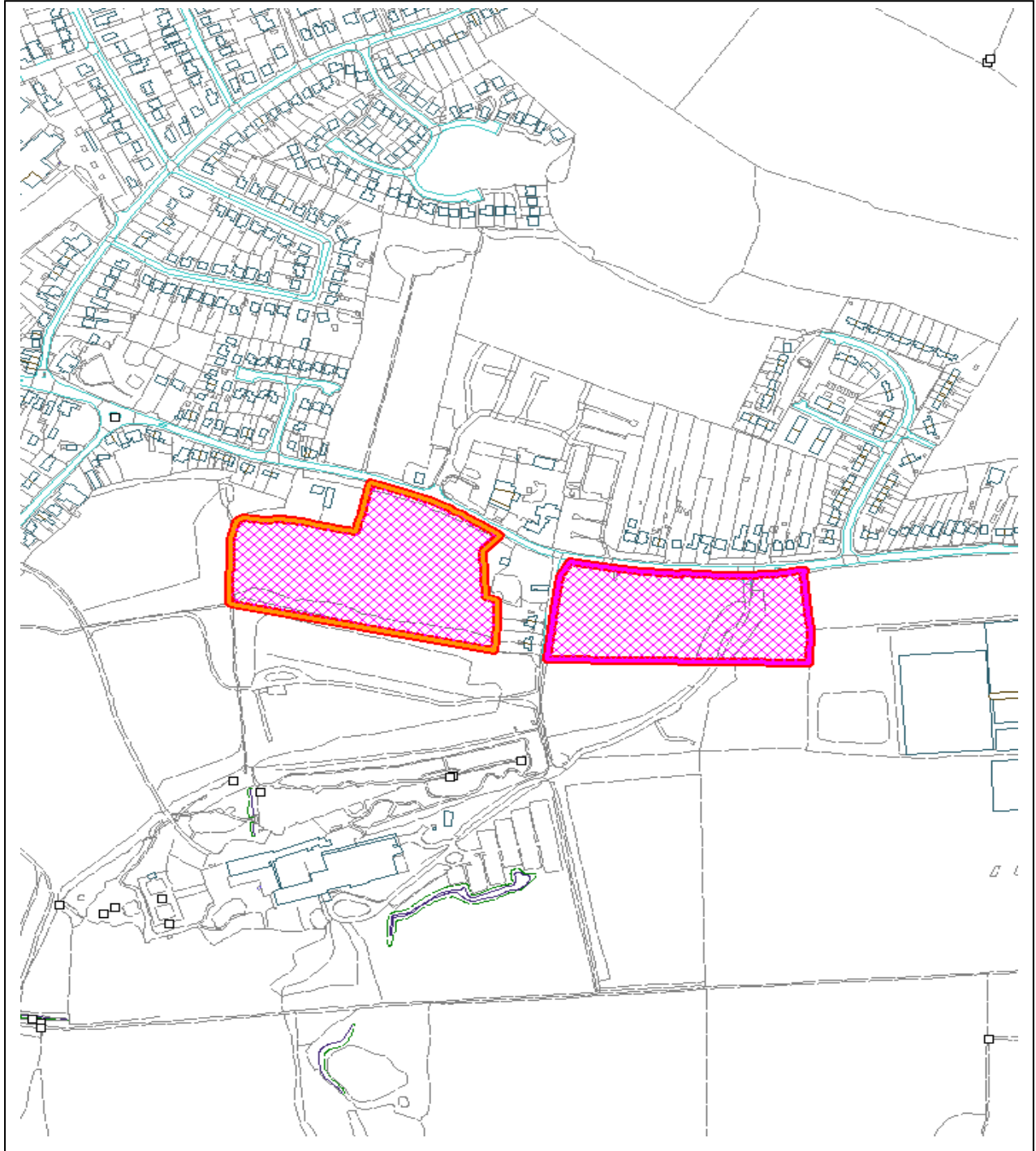


PLANNING COMMITTEE

1 NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION – 16/00838/OUT - LAND TO SOUTH OF FRINTON ROAD, THORPE-LE-SOKEN, CO16 0JF



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Application:	16/00838/OUT	Town / Parish: Thorpe Le Soken Parish Council
Applicant:	Drury Investments Ltd.	
Address:	Land to the south of Frinton Road, Thorpe Le Soken, CO16 0JF	
Development:	Outline Application for the construction of up to 49 houses together with access road.	

1. **Executive Summary**

- 1.1 The is an outline planning application seeking approval for the principle of developing up to 49 dwellings with all other matters, with the exception of access and layout, reserved for approval through a detailed application at a later date. As a departure from the Local Plan, this application is before the Committee for a decision. Councillor Land, as the Ward Councillor for Thorpe Le Soken, has also specifically requested that the application be determined by the Committee.
- 1.2 The application site measures some 5.20 hectares in area and lies outside of the defined settlement development boundary for Thorpe Le Soken as set out in both the Council's adopted and new emerging Local Plans. The site is effectively set in two parcels of land bisected by Hall Lane. The western portion of the site is located within the Thorpe Le Soken Conservation Area. An area of Grade II Registered Landscape which previously formed the gardens serving Thorpe Hall is located further to the south of the western part of the application site. Thorpe Le Soken has been identified as one of six 'Rural Service Centres' in the new draft Local Plan that contain a relatively good range of local services and facilities with potential for limited growth in homes and jobs.
- 1.3 Whilst the position is improving, the Council is still, at the time of writing, unable to demonstrate a 5 year supply of deliverable housing sites and the National Planning Policy Framework (NPPF) therefore imposes a presumption in favour of sustainable development whether a site forms part of the Local Plan or not. It requires that planning permission be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole. Taking into account the location of part of the site being within the Conservation Area and close to an area of Registered Landscape when weighing the planning balance, Officers are recommending that the scheme does meet the requirements of the NPPF and can be approved.

Recommendation: Approve Outline Planning Permission

That the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development subject to:-

- a) Within 6 months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where required):
- Council/affordable housing;
 - Education contributions;
 - Public open space and play and its transfer and maintenance.

- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).
- (i) Conditions:
1. Standard 3 year time limit for submission of reserved matters application;
 2. Standard 2 year limit for commencement of development following approval of reserved matters;
 3. Details of appearance, scale and landscaping (the reserved matters);
 4. Development in accordance with submitted indicative plans;
 5. Development to contain up to (but no more than) 49 dwellings;
 6. Highways conditions (as recommended by the Highway Authority);
 7. SUDS and drainage conditions as requested by Essex County Council;
 8. Hard and soft landscaping plan/implementation;
 9. Ecological mitigation - wildlife/tree protection measures;
 10. Construction methods plan;
 11. Details of lighting, materials and refuse storage/collection points; and
 12. Archaeological investigation and report works;
 13. Site lighting strategy, and;
 14. Broadband.
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. **Planning Policy**

National Policy:

NPPF National Planning Policy Framework (2012)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF does not change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
- an economic role;
 - a social role, and;
 - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.

- 2.4 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It 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 a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.5 Paragraph 187 of the NPPF states “*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area*”.

Local Plan Policy:

- 2.6 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the ‘development plan’ unless material considerations indicate otherwise. In the case of Tendring the development plan consist of the following:

Tendring District Local Plan (Adopted November 2007) – as ‘saved’ through a Direction from the Secretary of State. Relevant policies include:

QL1: Spatial Strategy: Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries. The policy defines Thorpe Le Soken as a village.

QL2: Promoting Transport Choice: Requires developments to be located and designed to avoid reliance on the use of the private car.

QL3: Minimising and Managing Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

QL9: Design of New Development: Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs: Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts: Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

QL12: Planning Obligations: States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

HG1: Housing Provision

Sets out the strategy for delivering new homes to meet the need up to 2011 (which is now out of date and needs replacing through the new Local Plan).

HG3: Residential Development Within Defined Settlements

Supports appropriate residential developments within the settlement development boundaries of the district's towns and villages.

HG3a: Mixed Communities

Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

HG4: Affordable Housing in New Developments

Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type

Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities

Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that have long since been superseded by the NPPF.

HG9: Private Amenity Space

Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

COM2: Community Safety

Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM6: Provision of Recreational Open Space for New Residential Developments

Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.

COM21: Light Pollution

Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM23: General Pollution

States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM26: Contributions to Education Provision

Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, toward the provision of additional school places.

COM29: Utilities

Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal

Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character

Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness, including listed parks and gardens.

EN4: Protection of the Best and Most Versatile Agricultural Land

Seeks to ensure that where agricultural land is needed for development, poorer quality land is used as priority over higher quality land.

EN6: Biodiversity

Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species

Ensures protected species including badgers are not adversely impacted by new development.

EN6b: Habitat Creation

Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN12: Design and Access Statements

Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems

Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN17: Conservation Areas

Requires development within Conservation Areas to preserve or enhance the character or appearance of the Conservation Area.

EN29: Archaeology

Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

TR1a: Development Affecting Highways

Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR3a: Provision for Walking

Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR4: Safeguarding and Improving Public Rights of Way

Encourages opportunities to expand the public right of way network.

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use

Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development

Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

Tendring District Local Plan 2013-2033 and Beyond: Preferred Options Consultation Document (Published July 2016)

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development

Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SP4: Infrastructure and Connectivity

Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

SP5: Place Shaping Principles

Requires the highest standards of built and urban design and sets out the key principles that will apply to all new developments.

SPL1: Managing Growth

Identifies Thorpe Le Soken as a 'rural service centre' within a hierarchy of settlements designed to direct future growth to the most sustainable locations.

SPL2: Settlement Development Boundaries

Seeks to direct new development to sites within settlement development boundaries.

SPL3: Sustainable Design

Sets out the criteria against which the design of new development will be judged.

HP1: Improving Health and Wellbeing

Requires a Health Impact Assessment on all development sites deliver 50 or more dwellings and financial contributions towards new or enhanced health facilities where new housing development would result in a shortfall or worsening of health provision.

HP4: Open Space, Sports and Recreation Facilities

Requires new developments to contribute to the district's provision of playing pitches and outdoor sports facilities and also requires larger residential developments to provide land as open space with financial contributions toward off-site provision required from smaller sites.

LP1: Housing Supply

Sets out the broad location of where new housing is proposed to be built to over the next 15-20 years to meet objectively assessed needs. This application site falls within one of the areas proposed for residential and mixed use development.

LP2: Housing Choice

Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

LP3: Housing Density

Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

LP4: Housing Layout

Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

LP5: Affordable and Council Housing

Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing.

PP12: Improving Education and Skills

Requires the impacts of development on education provision to be addressed at a developer's costs and also requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PPL1: Development and Flood Risk

Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

PPL3: The Rural Landscape

Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

PPL4: Biodiversity and Geodiversity

Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

PPL5: Water Conservation, Drainage and Sewerage

Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PPL7: Archaeology

Where developments might affect archaeological remains, this policy requires proper surveys, investigation and recording to be undertaken.

PPL8: Conservation Areas

Requires that new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area.

CP1: Sustainable Transport and Accessibility

Requires the transport implications of development to be considered and appropriately addressed.

CP3: Improving the Telecommunications Network

Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

Other Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

3. Relevant Planning History

15/01452/OUT Outline application for the construction of up to 49 houses together with access road. Withdrawn 21/11/2015

4. Consultations

TDC
Principal Tree &
Landscape
Officer Initial concerns were raised in respect to the loss of trees to the site frontage at the point of the proposed new access road. Further assessment has concluded that subject to a re-planting scheme removal and protection of trees in that part of the site is now considered acceptable.

In order to show the potential impact of the development proposal on the character and appearance of the landscape the applicant has submitted a Landscape and Visual Impact Assessment (LVIA). The LVIA establishes that the site lies within the Clacton and the Sokens Clay Plateau as defined in the Tendring District Council Landscape Character Assessment. The landscape is noted as being sensitive to change as a result of its open and rural character. The viewpoints selected in the LVIA adequately demonstrate the extent of the impact of the development proposal on the character and appearance of the local landscape character. Taking into account the topography of the locality it is considered that development proposal could sit relatively comfortably in its setting if an adequate level of soft landscaping is carried out. If planning permission is likely to be granted then it will be important to secure a comprehensive soft landscaping scheme to ensure that the development is assimilated into its setting. In addition to the soft landscaping referred to above it will be particularly important to secure a strong landscape/screening belt on the boundary with Frinton Road to replicate the screening value of any vegetation that may need to be removed to facilitate sight lines either side of the proposed new access.

TDC
Regeneration No specific comments but request a condition seeking superfast fibre broadband.

TDC Open
Space and Play There is an identified need to provide additional play equipment due to the significant lack of provision within the area. It is felt that a contribution, in line with the schedule set out in PE022, is justified and that this money would be spent at the closest play area being Lady Nelson Playing Fields. Public Open Space equating to 10% of site area shall be provided within the development site.

TDC Housing Note there are currently 17 families on the housing register seeking a 4 bed property in Thorpe Le Soken. It is preferable to have the housing delivered on site. Under policy LP5 of the emerging Local Plan 30% of properties should be provided as affordable housing - this would equate to 14 dwellings.

TDC
Environmental
Health No objection subject to need for condition ensuring provision of construction method statement.

ECC Highways No objection to the proposed scheme subject to various highway conditions.

ECC Schools	<p>A development of this size can be expected to generate the need for 4.4 early years and childcare places, 14.7 primary school places and 9.8 secondary places. The proposed development is within the catchment of Rolph Primary School which does not currently have capacity for additional places. A contribution for additional primary school places is therefore requested of £179,605 representing £12,218 per place. No secondary school contribution is sought.</p>
Anglian Water	<p><u>Assets affected:</u> Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.</p> <p><u>Wastewater treatment:</u> The foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows.</p> <p><u>Foul Sewerage Network:</u> The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.</p> <p><u>Surface Water Disposal:</u> The proposed method of surface water management does not relate to Anglian Water operated assets. The advice of the Lead Local Flood Authority or the Internal Drainage Board should be sought.</p>
Natural England	<p>Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes. Natural England refer the Local Planning Authority to the standing advice on protected species.</p>
Essex County Council Flood Authority	<p>Having reviewed the Flood Risk Assessment and subsequent submitted information we do not object to the granting of planning permission subject to conditions relating to the following:</p> <ul style="list-style-type: none"> • a detailed surface water drainage scheme; • a scheme for minimising offsite flooding during construction works; • a maintenance plan for the surface water drainage scheme; and • keeping an on-going log of maintenance.
Essex County Council Archaeology	<p>The Essex Historic and Built Environment Manager notes that the proposed development lies within an area of archaeological interest. There is potential for Bronze age and Roman heritage assets.</p> <p>It is noted that the western boundary of the development area lies within the Thorpe Le Soken Conservation Area and the Registered Park and Garden of Thorpe Hall. It is considered that the proposed development would cause some harm to the significance of the nationally important heritage asset due to adverse impacts on the setting of the historic garden and would have a significant impact on the character of the Conservation Area. The Council will need to weigh the perceived harm against the benefits that will arise from the proposed development.</p> <p>It is recommended that if the application is approved then a programme of trial trenching followed by open excavation should be secured by condition.</p>

Essex Gardens Trust

The Essex Gardens Trust note that the application has a material impact on the setting of the grade II registered landscape at Thorpe Hall. They consider that the gardens have been well preserved and are maintained as an important feature of the visitor experience at the Lifehouse hotel. It is stated that the application site originally provided an open rural or parkland setting to the site of Thorpe Hall. It is considered that the development is bland in nature and would change the character of the locality. They note at the closest point the gardens are 150 metres from the application site. The gardens and Hall were originally seen as providing a rural edge to the existing conservation area. The development would erode this character to the detriment of the Conservation Area. They conclude by suggesting that the harm to the heritage assets would not be balanced by public benefit of the development and therefore recommend refusal.

5. Representations

5.1 Thorpe Le Soken Parish Council are in favour of the application but suggest the following matters should be taken into consideration when the application is determined.

- The proposed application is within proximity of the remaining Historic Park and Gardens of the former Thorpe Hall and a Safeguarded Green Space known as The Playing Field that is currently leased to the Parish Council for the benefit of the village. The Parish Council are also of the opinion that should the application be approved it would be outside the Village Development/Conservation Area.
- With reference to one of the entrances: should the application be considered for approval, could the entrance adjacent to the already approved development on The Allotment site also along Frinton Road be combined with a mini roundabout being installed for the benefit of both entrances.
- The Environmental Impact will exacerbate the already strained local services and infrastructure.

5.2 As noted this application has been called into Committee by Cllr Land who also submitted an objection to the application. The following comments have been made:

- Part of the development is in the conservation area of Thorpe Hall.
- This proposal sits on the historic park and gardens site of Thorpe Hall (now currently a country lifestyle spa called Lifehouse). Lord and Lady Byng entertained royalty around the site of this proposal and the whole of the area has held significant historical value throughout the years and is part of Thorpe's future moving forward.
- This development (however it may end up), will bring further added pressure onto the congested roads each day. Thorpe is a bottle neck of traffic from the neighbouring villages/towns of Frinton, Walton, Kirby-le- Soken, Kirby Cross and Great Holland.
- The proposed accesses onto this development would take the number of accesses to over 10 from Station Road to Byng Crescent - one access is on a blind bend and totally inconsiderate to the established tree line and another is very close to the already established entrance at Lifehouse spa - an entrance that part of this development would use, why not both sides?
- Under current local plan proposals, sites at the Allotments (opposite this proposal) and the Maltings (by the station) already have planning permission and would see in excess of 100 dwellings built as part of Thorpe's allocation For a small village of our size that allocation would stretch the infrastructure to the limits and therefore this proposed

development would only place greater pressure on some of the points listed below for consideration:

Highways:

- bottle necked traffic through the village at school collection times
- poor road surfacing through the High Street
- surface water flooding from Tendring Road to Byng Crescent
- Poor visibility from the proposed access points on Frinton Road

Sustainability:

- no school places
- Colchester hospital full
- poor bus service

Environmental:

- establish trees along Frinton Road (oaks)
- bats in area
- badgers
- next to historic park and gardens of Thorpe Hall
- part of site in Conservation Area

5.3 79 individual objections have been submitted in response to this planning application which include the following concerns:

- Undesirable access to the Lifehouse due to new dwellings.
- Lack of infrastructure.
- Unsustainable housing growth.
- Inappropriate location next to Historic Park and garden/conservation area.
- Outside defined settlement boundary.
- Surface water problems.
- Sewer lack of capacity.
- No requirement for additional housing.
- Adverse impact on existing properties.
- Environmentally damaging.
- Traffic generation and additional highway dangers.
- Loss of views.
- Impact on wildlife.
- Impact on trees.
- Inadequate public transport.
- Lack of local employment.
- Contrary to emerging planning policy.

6. **Assessment**

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Housing Density and Mix;
- Layout;
- Residential Amenity;
- Traffic, access and highway safety;
- Impact on Heritage Assets;
- Ecology;
- Arboriculture/Landscaping;

- Drainage and Flood Risk; and,
- Other Material Considerations (including Section 106 Obligations).

Site Context

- 6.2 The site lies to the east of the main central area of Thorpe Le Soken and extends to 5.20 hectares in area. The site is relatively level in nature. The site consists mainly of existing agricultural land and is split into two distinct development areas either side of Hall lane.
- 6.3 The west parcel of land immediately adjoins the Lady Nelson Playing field and is set within part of the Conservation Area. A new site access is formed direct from Frinton Road to serve this part of the development. The east portion of the site is set either side of Lifehouse Drive which forms the main entrance to the Lifehouse hotel and spa, which in turn is located to the south of the application site.
- 6.4 The application site lies some 150 metres to the north of the grade II registered landscape relating to the gardens originally associated with Thorpe Hall.
- 6.5 A number of mature trees and hedging line the site frontage to the main highway which are protected by a Tree Preservation Order. Some trees will be removed to enable the new road access to be constructed. A significant number of other trees are located within the main body of the site, including a tree belt to the southern boundary.
- 6.6 The north side of Frinton Road consists of predominantly frontage residential development with a mix of bungalow and two storey dwellings. There are five existing dwellings located on Hall Lane. To the west of the application site on the opposite side of Abbey Street, is the site for an approved development for 40 dwellings, granted permission under reference 13/01481/FUL.

Proposal

- 6.7 The application has been submitted in outline form with all matters apart from access and layout reserved for later consideration. The scheme proposes the erection of up to 49 dwellings together with access roads.

Principle of Development

- 6.8 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.
- 6.9 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF 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 216 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 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. 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 216 of the NPPF, they will be

considered and, where appropriate, referred to in planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

- 6.10 The application site is located immediately to the south and east of the existing built form of Thorpe Le Soken and is adjacent to but outside the village's settlement development boundary as defined within both the adopted and emerging Local Plans. The boundary aims to restrict new development to the most sustainable sites and outside of the boundary the Local Plan generally seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.11 Because the site lies outside of the settlement development boundary and is not allocated for development in either the adopted or emerging Local Plans, this proposal for residential development is clearly contrary to local planning policy. However, paragraph 47 of the NPPF also requires local planning authorities to boost significantly the supply of housing by identifying and updating annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. In areas where there has been persistent under delivery of housing, an additional 20% 'buffer' is also required to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
- 6.12 For Tendring, the housing requirement is 550 dwellings per annum, as based on the evidence contained within the 'Objectively Assessed Housing Needs Study' (July 2015) and supplementary evidence that was presented to the Local Plan Committee on 21st January 2015. At the time of writing, and despite the publication of the new draft Local Plan, the Council are still only able to identify an approximate 4.5 year supply and thus there still remains considerable (albeit quickly reducing) shortfall. Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered 'up to date' if it is not possible to demonstrate a five year supply of deliverable housing sites and, in such cases, the 'presumption in favour of sustainable development' set out in paragraph 14 of the NPPF is engaged.
- 6.13 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.
- 6.14 Due to the lack of a five-year supply of housing sites and the subsequent engagement of the presumption in favour of sustainable development, the Council would not be justified in refusing planning permission purely on the basis of the application site being outside of the settlement development boundaries. The application must therefore be judged on its merits against the NPPF.
- 6.15 One of the NPPF's core planning principles is to "actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable".
- 6.16 With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations. Thorpe Le Soken is categorised in emerging Policy SPL1, along with six other villages, as a 'Rural Service Centre' in recognition of its size and reasonable range of services and facilities, particularly when compared against many of the district's smaller rural villages. Rural Service Centres are the next most sustainable category of settlement following 'strategic urban settlements', 'smaller urban settlements' and 'expanded settlements' (of which Weeley is the only one).

Therefore, a level of housing development for Thorpe Le Soken could have the potential to be considered sustainable so long as detailed matters such as infrastructure provision and environmental impacts are considered and addressed.

Housing Density and Mix

- 6.17 One of the key issues in determining this outline application is whether the site can reasonably accommodate the level of development proposed in an acceptable manner and whether the density of the site is appropriate to the site and its surroundings. Policy LP3 of the draft Local Plan requires new residential development to achieve an appropriate housing density that has regard to various factors, including the character of development in the immediate area. The density of this proposal, allowing for some informal open space within the site, is just under 10 dwellings to the hectare which is relatively low. However dwellings to the north of Frinton Road are characterised by large garden areas and taking into account the location of the site on the edge of the village a lower density is considered appropriate.
- 6.18 As this is an outline application with some matters reserved including scale and appearance the exact housing mix would not be finalised until the reserved matters stage however the applicant has indicated that all the dwellings would be 4 bedroom houses. The Housing team have identified the need for larger family size affordable homes within the locality. On this basis the suggested housing mix is considered acceptable.

Layout, Scale and Design

- 6.19 In support of the overarching aims and objectives of the NPPF the policies in both the adopted and emerging Local Plans set out the Council's commitment to sustainable development and good quality design. This planning application is submitted in an outline form with all matters, except access and layout, reserved for later consideration by the Council. The development's detailed design is one of the matters to be considered at 'reserved matters' stage.
- 6.20 The NPPF requires new development to have good connections with the existing built environment. In this regard the development is well served by existing footpaths leading along Frinton Road to the centre of the village a short distance from the site. The site also adjoins the Lady Nelson Playing Fields immediately to the west of the site as well as the existing scout hut. The close proximity of the site to the village centre and local services highlights the fact that the site is in a very sustainable location.
- 6.21 With regards to scale, the applicants have indicated that proposed development would be two-storey in height but this detail is a reserved matter consideration. As previously noted the west section of the application is served by a new access point onto Frinton Road which results in the loss of a small number of protected trees. Additional planting is shown within the gardens of the proposed plots and the periphery of the site. Surface water swales are shown close to the southern boundary of the site. Feeder roads are shown leading off the main access drive from Frinton Road serving individual dwellings. Each dwelling has parking and garaging provided and as noted above are served by quite generous garden areas.
- 6.22 The eastern part of the scheme is split by the access drive serving the Lifehouse but reflects a similar pattern of development to the western section. Formal open space has not been provided due to the close proximity of the Lady Nelson Playing Fields but informal areas have been created adjoining the proposed access roads and areas close to the southern site boundary. The site layout is therefore considered acceptable.

Residential Amenity

- 6.23 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) 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'. Policy SPL3 in the emerging Local Plan supports these objectives and states that 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.24 The proposed layout has been carefully considered and although Officers note the concerns raised by adjoining neighbours, adequate separation has been provided between proposed and existing dwellings avoiding the creation of adverse impacts. At detail stage the appearance and position of fenestration will be considered but it is clear from the submitted layout plan that this can be achieved without having adverse impacts on existing amenity.
- 6.25 Clearly there will be some impact to neighbours during the construction period but conditions would be applied to the development to minimise impacts if the Committee is mindful to approve the application.

Traffic, Access and Highway Safety

- 6.26 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - safe a suitable access to the site can be achieved for all people, and ;
 - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.27 Policy QL10 of the Saved Plan states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate.
- 6.28 The current application has been submitted in outline form although access does form part of the current application to be considered. In order to gain a full understanding of the likely impacts of the current proposal on the highway network the applicants have submitted a Transport Statement in support of the application. This document considers the proposed access points into the site from Frinton Road as well as highway safety and capacity in the wider area.
- 6.29 As noted a new access is proposed to serve the west section of the scheme with the existing Lifehouse Drive serving the eastern section. As noted the Highway Authority raise no objection to the proposed access points although do require some improvements to the width of the Lifehouse Access. The scheme is able to provide the required visibility splays which can be achieved without removal of the existing tree belt fronting Frinton Road. There will be a minimal loss of trees at the point where the new junction is formed.
- 6.30 Officers note the concerns raised by local residents in terms of additional traffic movements but the Highway Authority are satisfied that there is existing highway capacity to serve the proposed scheme.

- 6.31 Officers conclude that the development, subject to the proposed conditions, would meet the requirements of Policy TR1a of the adopted Local Plan and the element of Policy CP1 in the emerging Local Plan relating to highway capacity and safety. It would also meet paragraph 32 of the NPPF which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Impact on Heritage Assets

- 6.32 The enduring physical presence of the historic environment contributes significantly to the character and 'sense of place' of rural and urban environments. Some of this resource lies hidden and often unrecognised beneath the ground in the form of archaeological deposits, but other heritage assets are more visible. Policy PPL7 of the draft Local Plan requires archaeological evaluation to be undertaken for schemes affecting sites that do or might contain archaeological remains. Policy PPL8 of the emerging Local Plan requires development within or affecting the setting of a Conservation Area to only be permitted where they have regard to the desirability of preserving or enhancing the special character and appearance of the area.
- 6.33 The NPPF is clear that when determining applications, Local Planning Authorities (LPA's) should require the applicant to describe the significance of a heritage asset affected, including any contribution made by their setting. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 6.34 The NPPF further states that where a site includes or has the potential to include heritage assets with archaeological interest, LPA's should require developers to submit an appropriate desk-based assessment and where necessary a field evaluation. In this instance the County Council Historic and Built Environment Manager has requested that if members are minded to approve the application then a condition is applied requiring a programme of trial trenching followed by open area excavation.
- 6.35 The western part of the application site is located within the Thorpe Le Soken Conservation Area with the east section of the site abutting the eastern edge of the Conservation Area. The development therefore has a clear impact on the Conservation Area and this impact must be balanced against the need for additional housing.
- 6.36 The Conservation Area Character Appraisal, adopted by the Council in March 2006, summarises the existing character of the area immediately south of Frinton Road as follows: *'The other side of the (Frinton) road is screened by mature trees and comprises access to the recreation ground, a group of modern pavilions and pasture. At the eastern end of the Area, Dairy Cottage and two pairs of semi-detached dwellings line Hall Lane in an informal manner: the latter are much altered and extended with a variety of frontage treatments'*. The Appraisal also provides detail of the former Thorpe Hall and the 'pleasure gardens' which were formal gardens set around the original hall site. The grounds of the Hall are classed as Grade II Registered Landscape. It should be noted that although part of the application site is located within the Conservation Area it is located outside the registered landscape and is set some distance from the 'pleasure gardens'. The nearest Listed Building to the site is Elm Farmhouse, a Grade II listed building located opposite Hall Lane, approximately 40 metres to the north of the site on the northern side of Frinton Road. The development is not considered to adversely affect the setting or appearance of this listed building.
- 6.37 The applicant has provided a Landscape and Visual Appraisal as part of the application documents which concludes that there would be no material effect on the wider landscape or countryside of the area, nor would there be any notable direct effect on the Registered

Park and Garden. Officers have considered the content of the Visual Appraisal and would agree that the impact of the development is mitigated in particular by a relatively mature tree belt to the southern site boundary effectively screening the development from the registered parkland and wider Conservation Area.

- 6.38 Officers consider that the proposed development would not harm the character or setting of the Conservation Area. Although the application site does fall within the Conservation Area designation it is somewhat divorced from both the registered landscape and the more historic core of the Conservation Area. The site is therefore considered well contained and capable of supporting a sympathetically designed scheme.
- 6.39 Based on the above assessment it is considered that the development of this site can be achieved without harm to the identified heritage assets, in keeping with the aims and objectives of National and Local Plan Policies as set out above.

Ecology

- 6.40 Policies within Chapter 6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan seek to ensure that where development is likely to harm nature conservation or geo-diversity interests, planning permission will only be granted in exceptional circumstances, where the benefits of the development clearly outweigh the harm caused and where appropriate mitigation measures must be incorporated into the development to the satisfaction of Natural England and other appropriate authorities.
- 6.41 No part of the development site or any land that it abuts has any type of statutory or non-statutory nature conservation designations and Natural England have indicated that the proposal is unlikely to affect any statutorily protected sites or landscapes.
- 6.42 A Preliminary Ecological Appraisal, Bat and Reptile survey have been submitted as part of the application detail. The Appraisal concluded that Parcels 2, 3 and 4 of the proposed development have been listed as a 'potential local wildlife site'; however based upon the initial survey undertaken, the majority of the habitat present within the parcels of land are considered common habitats that do not appear to be floristically diverse. This does not, however, exclude these habitats from offering suitable habitats for protected species. The Appraisal recommended that further surveys be undertaken to assess the presence of Bats and Reptiles on the site but did not consider the site suitable for Badger, Water Voles, Otters and Dormice in terms of other protected species.

Bats

- 6.43 The Bat Survey noted the presence of Common and Soprano Pipistrelles close to sunset/sunrise and it was assumed that the roosts for these species were close to the site. The report noted that no bats were seen entering or egressing from the trees to be affected by the new access road from Frinton Road. The report also noted that the removal of a small section of the northern boundary treeline to provide access will have no negative impact providing the majority of this feature is retained. It was also considered that other mature trees which may have roost potential within or close to the site are in fact to be retained. Areas considered to be potential foraging locations for bats again were to remain and would not be affected by the development.

Reptiles

- 6.44 The submitted Reptile Survey concludes that the habitats on site are considered important for reptiles on a local scale. It is considered likely that the removal of vegetation and construction of the proposed residential development, without appropriate mitigation will have a negative impact on a local scale. The report therefore recommends that it will be

necessary to take precautions before site clearance or building begins to prevent reptiles from being harmed. A finalised mitigation plan which will include the translocation of reptiles from the site will be required once a receptor site for reptiles has been decided.

Breeding Birds

- 6.45 Due to the fact that the majority of existing trees and boundary features are to be retained as part of the scheme it is considered there will be limited opportunity for harm to birds whilst breeding and additional soft landscape planting will further contribute to the maintenance of the site for breeding birds post-development.
- 6.46 Given the site's edge of village location in proximity to the wider countryside, and in accordance with paragraph 118 of the NPPF, this application provides opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. Such ecological enhancement opportunities could be secured by condition.

Arboriculture/Landscaping

- 6.47 The proposals have been assessed by the Council's Tree and Landscape Officer who has concluded that, having assessed the Landscape and Visual Landscape Assessment, has recommended that a comprehensive soft landscape scheme be secured in order for the development to be assimilated into its setting. Part of the landscape scheme should be the enhancement of the existing tree belt fronting Frinton Road. Initial concern was raised in respect of tree removal at the point of the new access but on further assessment this is now considered acceptable subject to a replanting scheme as mitigation.

Drainage and Flood Risk

- 6.48 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.
- 6.49 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Following submission of additional detailing the County Council supports the grant of outline planning permission subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place.
- 6.50 In conclusion, the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the scheme should comply with the NPPF and Policies QL3 and PPL1 of the adopted and emerging Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.
- 6.51 In addition, Anglian Water has commented upon the application, and confirms the foul drainage from the development is in the catchment of the Colchester Water Recycling Centre that will have available capacity for these flows. Furthermore, the sewerage system at present has available capacity for these flows. Based on the details contained within the FRA and Drainage Report, it is considered that the application site could be developed in the manner proposed without any risk of flooding from or to the proposed development

compliant with the aims and objectives of the NPPF as well as Local Plan Policies set out above.

Other Material Considerations (including Section 106 Obligations)

Open Space and Play

- 6.52 Policy COM6 in the adopted Local Plan and Policy HP4 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. The Council's Open Space Team has commented on the application and has identified a deficiency of equipped play areas in Thorpe Le Soken. As such a contribution in line with HP4 is considered appropriate and would be spent at the closest play area being the Lady Nelson Playing Fields.
- 6.53 As noted there are informal areas of on-site open space proposed within the development site. If this land is to be transferred to Tendring District Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a s106 legal agreement. If the Committee is minded to approve this application, Officers will engage in negotiations with the applicant to agree the necessary requirements in line with the guidance contained within the Council's Supplementary Planning Document on Open Space.

Affordable Housing/Affordable Housing

- 6.54 Adopted Policy HG4 requires up to 40% of dwellings to be affordable housing on sites of 15 or more dwellings in urban settlements (with a population of 3,000 or more) and on sites of 5 or more dwellings in rural settlements (with a population less than 3,000). The National Planning Policy Framework requires Councils to consider economic viability when it applies its policies and the Council's own 2013 viability evidence in support of the Local Plan demonstrates that 40% affordable housing is unlikely to be viable in Tendring and that between 10% and 30% (as contained within emerging Policy LP5) is more realistic. The thresholds under adopted Policy HG4 will therefore be applied but the percentage will be between 10% and 30% as detailed under emerging Policy LP5.
- 6.55 The Council's Housing Needs team has commented on the application and advised that there is a need for affordable housing in Thorpe Le Soken based on evidence from the local housing register. It is noted that there are currently 17 families on the housing register seeking a 4 bedroom property in Thorpe Le Soken. There is a severe need more widely across the District for this size of affordable housing. It has been suggested that another registered provider, other than the Council, be approached to take on the appropriate number of new properties. If this is not possible, then either a smaller number of gifted units or a financial contribution could be secured. If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of affordable housing to be secured through a s106 legal agreement.

Education provision

- 6.56 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. Based on ECC's formula for calculating the number of additional places likely to be required as a result of the development, this scheme of up to 49 dwellings could generate a need for 4.4 additional early years and childcare places, 14.7 primary school places and 9.8 secondary school places. No contributions have been requested towards secondary school places however due to the lack of capacity at Rolph Primary School a contribution for additional Primary School Places

is requested which at £12,218 per place equates to a developer contribution of £179,605 to be secured through a s106 legal agreement.

Sewage

- 6.57 With regard to sewage capacity, Anglian Water has advised that there is sufficient capacity in the foul sewerage network to deal with the levels of effluent expected from this scheme of 49 dwellings and has made no objections to the proposal, nor has it requested any conditions.

Health provision

- 6.58 NHS England have not requested any financial contributions towards health provision and only tend to make such requests on schemes of 50 or more dwellings.
- 6.59 In conclusion, the impacts on local infrastructure arising from this development can either be addressed by way of developer contribution (in the case of education and open space) or are otherwise not considered to be significant or demonstrable enough to justify the refusal of planning permission when applying the presumption in favour of sustainable development.
- 6.60 The applicant has indicated a willingness to enter into a planning agreement to secure any financial contributions required by the development. Members are therefore requested that if there is a resolution to grant planning permission, that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development subject to within 6 months of the date of the Committee's resolution, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the matters of affordable housing provision; education provision; and off-site public play space provision.

Overall Planning Balance

- 6.61 Because the Council's adopted Local Plan is out of date, the emerging plan can only carry a limited degree of weight at this time and a five-year supply of deliverable housing sites cannot currently be identified, the National Planning Policy Framework (NPPF) requires that development be approved unless the adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the NPPF suggest development should be refused. The NPPF in this regard applies a 'presumption in favour of sustainable development' for which sustainable development addresses economic, social and environmental considerations.
- 6.62 Economic: Whilst the scheme is residential with no commercial premises provided, up to 49 dwellings would generate additional expenditure in the local economy which has to be classed as an economic benefit. There will also be temporary jobs in construction whilst the homes are being built. Whilst objectors suggest the economic benefit is likely to be minimal, it is still however positive.
- 6.63 Social: The provision of up to 49 dwellings toward meeting projected housing need, at a time when the Council is unable to identify a five-year supply, is a significant social benefit which carries a high level of weight in the overall planning balance – particularly as government policy is to boost housing supply. The impacts on Open Space and schools provision will be mitigated through financial contributions to be secured through a s106 agreement, if the application is approved.
- 6.64 Environmental: The environmental impacts of the proposal have required very careful consideration. As noted the development partly encroaches into the Thorpe Le Soken

Conservation Area and is relatively close to a Grade II Registered Parkland. In addition the presence of protected wildlife species (Bats and Reptiles) has been identified. In terms of the visual impact of the development the presence of existing mature screening to the site boundaries ensures that the development would remain relatively self-contained protecting existing views from inside the Conservation Area and from the Registered Parkland Area. With existing mature tree planting to the Frinton Road frontage the impact of the development is again softened and can be enhanced by further planting. The relatively low density level of development and the opportunity to undertake comprehensive landscape planting across the development site will again assist in softening the appearance of the development on what is an edge of village site. Subject to appropriate mitigation measures in respect of Bats and Reptiles the impact on existing wildlife and ecology is also considered acceptable.

- 6.65 In the overall planning balance, Officers consider that the adverse impacts do not significantly and demonstrably outweigh the benefits and is therefore recommended for approval subject to a s106 legal agreement and a range of planning conditions.

Background Papers

None.