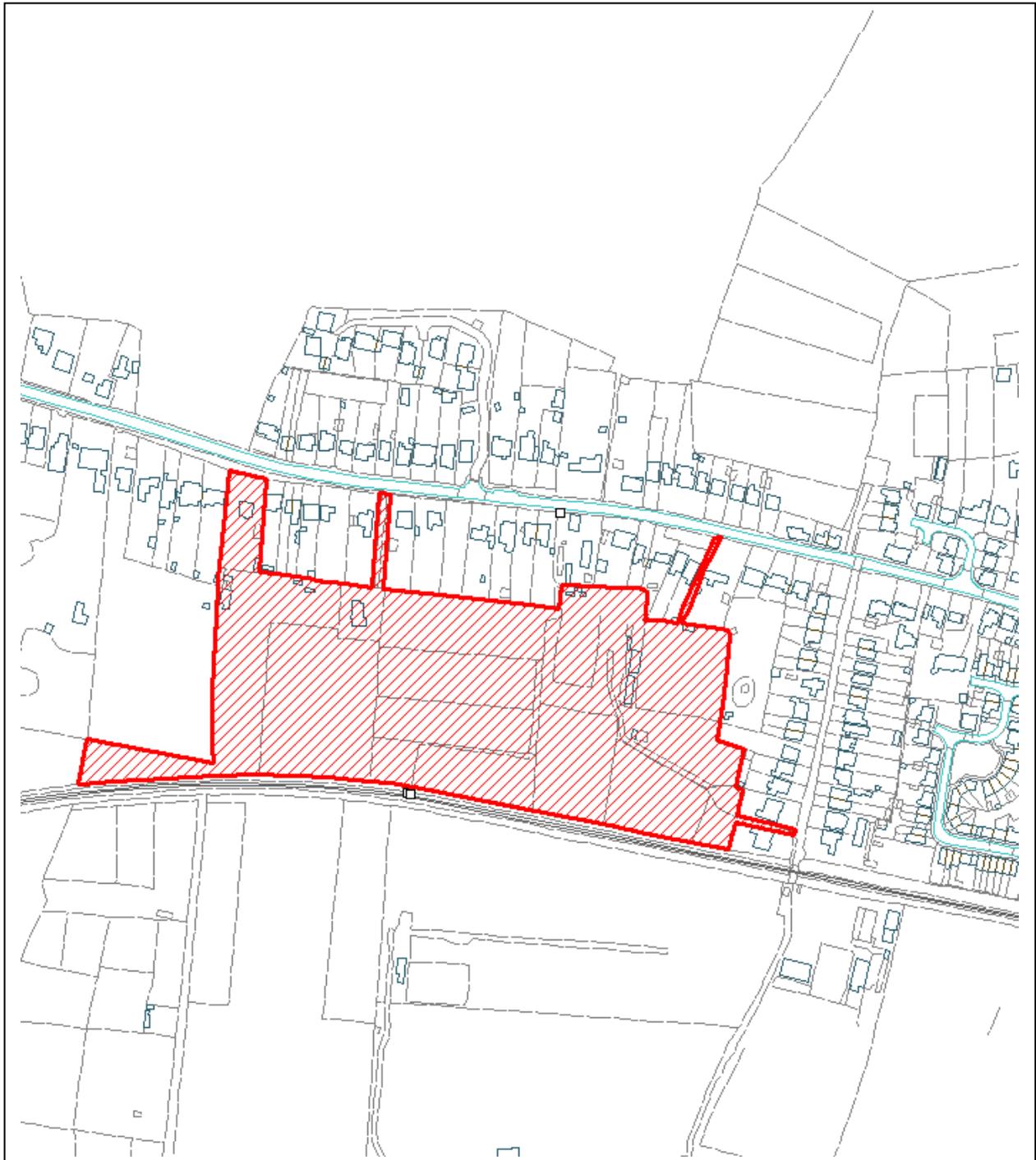


PLANNING COMMITTEE

12th August 2019

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATION – 18/01728/DETAIL – 171 THORPE ROAD AND LAND TO REAR OF 121-183 THORPE ROAD AND 4-20 CHAPEL LANE KIRBY CROSS FRINTON ON SEA CO13 0NH



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Application: 18/01728/DETAIL

Town / Parish: Frinton & Walton Town Council

Applicant: EMP Kirby Limited - Mr Pickett

Address: 171 Thorpe Road and Land to rear of 121-183 Thorpe Road and 4-20 Chapel Lane Kirby Cross Frinton On Sea Essex CO13 0NH

Development: Demolition of one dwelling and reserved matters application for 105 no. residential units.

1. Executive Summary

- 1.1 **This application was deferred from Planning Committee on 30th July 2019 for further information to be sought on the overhead power lines. Updates to the original report are in bold font for clarity. The applicant has confirmed that the overhead power lines will be buried and routed through the site, and that this has been discussed with UK Power Networks (UKPN). A new terminal pole will be erected on the other side of the railway line to prevent encroachment on to Plot 82, and a new underground cable will need to be installed under the railway and through the site. The existing underground cable exits the development site through what will become plot 37's garden. The applicant states UKPN will require a 3m wide easement on the new cable, which will not be achievable within the demise of plot 37. Plot 38 and 39 do offer a route, however UKPN would not agree to multiple properties being encroached with the easement. The alternatives are to run the cable through the site and to exit via the footway link between 155 and 159 Thorpe Road, then to run east along the footway until 143 Thorpe Road, where it will connect to the existing underground cable, or to run the cable through the site and to exit the site via the footway link between 127 and 129 Thorpe Road. They believe that the new cable would be able to connect to the existing HV cable in the opposite footway, but this is subject to clarification from UKPN. An additional condition seeking approval of the route of the underground power cable is therefore included within the recommendation.**
- 1.2 This reserved matters application is referred to Planning Committee at the request of Members when determining the outline planning application. The development also represents a departure from the adopted Development Plan, being located outside the settlement development boundary in the Tendring District Local Plan 2007.
- 1.3 The Council refused a planning application (15/01710/OUT) that sought planning permission for the demolition of one dwelling and outline planning permission for the erection of up to 110 no. residential units, with all matters reserved except for access. Members refused the application contrary to the Officer recommendation. The applicant appealed that decision and in September 2016 a Planning Inspector granted the outline permission, subject to a S106 legal agreement and nineteen conditions.
- 1.4 The application site is situated on land that lies between the rear gardens of properties on the southern side of Thorpe Road and the railway line, and to the west of properties fronting onto Chapel Lane, at the western end of the village of Kirby Cross. The site covers an area of 4.8 hectares, the majority of which comprises former horse paddocks, but it also includes the detached bungalow and garden at no.171 Thorpe Road and land that will provide three further pedestrian connections from the main body of the application site to Thorpe Road and Chapel Lane.

- 1.5 The site is flanked to the north and east by the rear gardens of dwellings on Thorpe Road and Chapel Lane; to the south by the railway line; and the west by a wooded area beyond which is farmland.
- 1.6 The submitted application seeks the approval of Reserved Matters for Appearance, Landscaping, Layout, and Scale, pursuant to condition 1 imposed upon the grant of outline planning permission. Approval is now sought for the erection 105no dwellings, predominantly bungalow accommodation comprising a mix of 1, 2, 3 and 4-bedroom units, including 8no affordable housing units that are to be gifted to the Council.
- 1.7 The scheme has been revised following discussions with Planning Officers and is now considered to be sympathetic to local character, with a layout that responds positively to site constraints and opportunities, including the presence of numerous trees that are protected by Tree Preservation Orders. At the centre of the development a public green, with small play area, is proposed and this will help to create a sense of place. The layout is arranged so that the new homes face inwards from the boundaries of the site, so as the reduce the impact on the amenity of the existing residents adjoining the site and to provide an appropriate soft edge to this new edge of the village.
- 1.8 Finally, with regard to ecology, the applicant has agreed to suitable mitigation measures for the loss of barn owl habitat on the site and a package of measures to mitigate against increased recreational pressure arising from these new dwellings on the relevant European Protected Habitat sites', in line with the aspirations of the emerging RAMS (Recreational disturbance Avoidance and Mitigation Strategy).

Recommendation:

That the Head of Planning be authorised to grant approval of the Reserved Matters for the development subject to: -

1. **Within 6 (six) 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 matter:**
 - **Financial Contribution of £122.30 per new dwelling towards RAMS.**
2. Subject to the conditions stated in section 8.2.
3. 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

The following Local and National Planning Policies are relevant to this planning application.

National Planning Policy Framework 2019 (NPPF)

- 2.1 The NPPF 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 doesn't 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 Paragraph 38 of the NPPF states "Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible."

National Planning Practice Guidance (PPG)

2.5 The PPG provides additional planning guidance from Central Government on a range of issues, including, but not limited to: Air Quality; Climate Change; Design, Flood risk and coastal change; Light Pollution; Natural Environment; Noise; and Travel Plans, Transport Assessments and Statements.

Status of the Local Plan

2.6 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

2.7 Section 1 of the emerging 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.

2.8 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.

2.9 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 emerging 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.

2.10 The following Local and National Planning Policies are relevant to this planning application:

Tendring District Local Plan (Adopted 2007)

QL1: Spatial Strategy

QL2: Promoting Transport Choice

QL3: Minimising and Managing Flood Risk

QL9: Design of New Development

QL10: Designing New Development to Meet Functional Needs

QL11: Environmental Impacts

QL12: Planning Obligations

HG1: Housing Provision

HG3: Residential Development Within Defined Settlements

HG3a: Mixed Communities

HG4: Affordable Housing in New Developments

HG6: Dwellings Size and Type

HG7: Residential Densities

COM1: Access For All

COM2: Community Safety

COM6: Provision of Recreational Open Space for New Residential Developments

COM21: Light Pollution

COM22: Noise Pollution

COM23: General Pollution

COM29: Utilities

COM31a: Sewerage and Sewage Disposal

EN1: Landscape Character

EN2: Local Green Gaps

EN4: Protection of the Best and Most Versatile Agricultural Land

EN6: Biodiversity

EN6a: Protected Species

EN6b: Habitat Creation

EN11a: Protection of International Sites: European Sites and Ramsar sites

EN12: Design and Access Statements

EN13: Sustainable Drainage Systems

EN23: Development within the Proximity of a Listed Building

TR1a: Development Affecting Highways

TR1: Transport Assessment

TR3a: Provision for Walking

TR5: Provision for Cycling

TR6: Provision for Public Transport Use

TR7: Vehicle Parking at New Development

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

SP1: Presumption in Favour of Sustainable Development

SP2: Spatial Strategy for North Essex

SP3: Meeting Housing Needs

SP5: Infrastructure and Connectivity

SP6: Place Shaping Principles

SPL1: Managing Growth

SPL2: Settlement Development Boundaries

SPL3: Sustainable Design

HP1: Improving Health and Wellbeing

HP3: Green Infrastructure

HP5: Open Space, Sports and Recreation Facilities

LP1: Housing Supply

LP2: Housing Choice

LP3: Housing Density

LP4: Housing Layout

LP5: Affordable and Council Housing

PP12: Improving Education and Skills

PPL1: Development and Flood Risk

PPL3: The Rural Landscape

PPL4: Biodiversity and Geodiversity

PPL5: Water Conservation, Drainage and Sewerage

PPL9: Listed Buildings

CP1: Sustainable Transport and Accessibility

CP2: Improving the Transport Network

CP3: Improving the Telecommunications Network

Other Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

Essex Design Guide (2005)

Urban Place Supplement (2007)

3. Relevant Planning History

15/01710/OUT	Demolition of one dwelling and outline application for up to 110 no. residential units with all matters reserved except for access.	Refused. Allowed on Appeal.	02.08.2016
16/00804/OUT	Demolition of one dwelling and outline application for up to 109 no. residential units with all matters reserved except for access.	Withdrawn	09.11.2016

4. Consultations

Natural England	No objection subject to appropriate mitigation being secured. The development site falls within the 'Zone of Influence' (Zol) of one or more of the European designated sites and it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure.
Essex County Council Ecology	We have reviewed the Barn Owl Ecological Advice Note (SES, March 2019) supplied by the applicant, relating to the likely impacts of development on Barn Owl, a legally Protected species and identification of proportionate mitigation & monitoring. We are satisfied that the current measures proposed in the Barn Owl Ecological Advice Note (SES, March 2019) will, with fencing to restrict access to the on-site replacement nesting box, enable the LPA to demonstrate its compliance with its statutory duties including its duties to protect Schedule 1 bird under the Wildlife & Countryside Act 1981 and to prevent wildlife crime under s17 Crime & Disorder Act 1998.

The on-site nest box will need to be provided at least one year prior to demolition and a buffer area of min 75m be secured with fencing to restrict access. A follow up check for Barn Owls using the building to be demolished must be undertaken prior to commencement of development, with mitigation measures implemented in full.

As the applicant has no land to provide any additional nest boxes off site within the wider landscape, it is considered reasonable for future monitoring of the on site barn owl box to be undertaken by a suitable qualified licenced barn owl ecologist.

This will provide certainty for the LPA of the likely impacts on Barn Owl, a Protected species, and with appropriate mitigation measures secured, the development can be made acceptable.

This will enable the LPA to demonstrate its compliance with its statutory duties.

Essex Police (Designing out Crime Officer)

Essex Police would like to see this developer seek to achieve a Secured by Design award in respect of this development and stresses the importance of effective lighting, security and that all windows and door sets are to be Secure by Design compliant.

Network Rail

Network Rail do not object to the development in principle, however they do object to the direct footpath link between the development and Chapel Lane and the publication of a circular walking route over two level crossings as this may increase the recorded risk level at both crossings.

Removal of the direct footpath would make the development more acceptable to Network Rail, or the developer could provide a footbridge to allow Nursey level crossing to close.

The development may also create an increase in footfall to the station which may create capacity issues at the station.

Anglian Water Services Ltd

Foul drainage from this development is in the catchment of Walton-On-The-Naze Water Recycling Centre which still has available capacity for these flows. A condition is recommended to ensure that the sewage network has capacity to accept the flows and prevent there being an unacceptable risk of flooding.

Surface Water - The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Anglian Water do not consider that evidence has so far been provided to show that the

surface water hierarchy has been followed as stipulated in Building Regulations Part H.

ECC Highway Authority

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

1 Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in accord with plans :

- 1370/P/03 Rev. P6 Amended block plan
- 1370/P/12 Rev. P6 Amended highway plan
- 1370/P/04 Rev. P6 Amended phase plan

2 Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

(No condition 3)

4. Each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles and each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

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

6. The proposed/any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

7. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

8. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

9. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- I. the parking of vehicles of site operatives and visitors
- II. loading and unloading of plant and materials
- III. storage of plant and materials used in constructing the development
- IV. wheel and underbody washing facilities

NHS East Essex CCG

A financial contribution was requested to contribute towards increasing primary healthcare capacity when Outline planning permission was requested

ECC SuDS Consultee

No objection. Initially ECC SuDS issued a holding objection as this application contained no further information on the detailed surface water drainage arrangements for the development.

ECC SuDS are now aware that a drainage strategy was agreed as part of the outline permission and that there is a condition attached to the outline permission that requires submission and approval of further drainage details. On the basis that there will be a separate application to discharge this planning condition, which ECC SuDS will assess, they have withdrawn their holding objection.

5. Representations

5.1 Frinton and Walton Town Council recommend that the application is refused. Their reasons for objecting to the application are:

- Object to the principle of a housing development on this site as the site is outside the village settlement boundary and is in an unsustainable location being distant from shops, education, healthcare and employment; development would erode the green gap; and would constitute backland development.
- Development would be too close to the railway line.
- Proposed development is too dense.
- Properties are of a poor design and lack suitable amenity space and parking
- Two storey properties in the south east corner will overlook the single storey properties in Chapel Lane.
- Highways - the vehicular entrance/exit on to Thorpe Road, is not in a safe location; roads should have 5.5m wide carriageways. Particularly concerned about the distance between properties and impact this will have on residents' amenity.
- Pond should be of an adoptable standard.

5.2 Letters objecting to the application have been received from twelve local residents. The objections received raise the following points:

Principle of Development

- Village infrastructure does not have capacity to provide services for more residents – primary and secondary schools are full; broadband speed is very slow; not possible to get appointments to see GP; roads are congested
- The village has already been subject to considerable development and construction work will further inconvenience residents if more development is allowed
- Safety at railway level crossings near the development site
- There are lots of properties for sale in the area so there is no need for more new housing

Landscape & Ecology

- New dwellings will be built in close proximity to mature oak trees that are in adjoining gardens
- Development will affect deer, bats, owls, and kestrels that have all been seen in the area
- Trees and hedgerow need protecting to help the birds and wildlife
- Barn owls are regularly seen in this area
- Bats fly around this area – potential for harm due to loss of habitats and introduction of lighting

Highways

- Thorpe Road is already an extremely busy road and increasing traffic will increase danger
- Highway access is unsafe. Whilst the speed limit passing the entrance is 30 mph vehicles actually pass at 50 to 60 mph and the Councils should undertake their own traffic speed monitoring which will show that the proposed access will not be safe
- Roads are very narrow. Inadequate provision for resident's car parking will result in cars parking inconveniently and unsafely in the carriageway and on adjoining streets
- Developer should be made to provide a pedestrian crossing on Thorpe Road, to provide a safe crossing point for adults and children to access facilities north of Thorpe Road (shops, school, play area and bus services)
- Pedestrian access from the development to Chapel Lane between no's 20-22 will access onto the private unadopted Chapel Lane. The resulting increase in pedestrian and cyclists will increase the cost of repairs and maintenance which have to be borne by Chapel Lane residents who own the road

Neighbour Amenity

- Proposed houses are far too near to current properties adjoining the site resulting in concerns about loss of privacy; light pollution from street lighting; loss of light and noise
- The road accessing the development will be close to existing properties
- Only bungalows should be allowed adjacent to existing residential properties – not two storey housing. Locating flats adjacent to existing properties is a particular concern as the upper floor accommodation would increase the extent to which properties were overlooked
- Loss of views
- Security - rear boundaries of existing properties will be left exposed to the public realm
- Construction work could cause structural damage to existing properties
- The siting of car parking areas and bin stores close to existing properties will increase likelihood of smell, noise, and disturbance which will adversely affect existing residents
- Development will adversely affect existing property values

Other Matters

- Plans are inaccurate – two new build properties on Chapel Lane are missing from the plan.
- No provision for play areas for children
- Increase in traffic will adversely affect air quality
- The large water retention pond will be dangerous for young children unless adequately enclosed
- Social/affordable housing is proposed at the south-east corner of the site, overlooking bungalows fronting onto the private unadopted public right of way known as Chapel Lane. This overlooking of neighbouring properties and private garden amenities can be overcome if the social/affordable housing was re-positioned at the south-west corner of the site, adjacent to the railway line and adjoining countryside

6. Assessment

Site Context

- 6.1 The application site is located in the western part of the settlement of Kirby Cross and consists of 4.8 hectares of relatively flat open land which is to the rear of frontage development along Thorpe Road. To the north the site is bounded by the rear gardens of dwellings on Thorpe Road; to the east by a small area of open land to the rear of properties on Chapel Lane; to the south by the railway line; and to the west of the site is a wooded area beyond which is farmland. The site contains a number of mature trees on and close to site boundaries. Hedgerows within the site also contain some large trees.
- 6.2 The site was previously used for the keeping of horses and had included a number of equestrian related structures - stable buildings, shelters and a ménage. Since outline permission was granted horses are no longer kept at the site and the grassland has become overgrown.
- 6.3 In addition to the paddocks the site also includes 171 Thorpe Road which is a detached bungalow that would be demolished to provide the vehicular access to the site. A further dwelling (No.157) is located within the site. There is an existing drive leading to that property which will be used to provide a further pedestrian access to the site from Thorpe Road. Further pedestrian links will be provided from Thorpe Road, between 127 & 129 Thorpe Road, and an access from Chapel Lane.

Planning History

- 6.4 In November 2015 an application was made that sought planning permission for the demolition of one dwelling and outline planning permission for the erection of up to 110 no. residential units with all matters reserved except for access (15/01710/OUT). Officers reported the application to Planning Committee in March 2016 and recommended approval of the application. The Committee refused the application as it was considered that the development would be contrary to the 'Local Green Gap' policy; be out of character with the character of Kirby Cross and be harmful to the intrinsic character and beauty of the countryside. The applicant successfully appealed that decision and in September 2016 a Planning Inspector granted the outline permission, subject to a S106 legal agreement and nineteen planning conditions.
- 6.5 Thirteen of the planning conditions imposed by the Planning Inspector require the submission and approval of details prior to the commencement of development - Conditions 4 (Phasing Plan), 5 (External Materials), 7 (Tree Protection), 8 (Boundary Walls and Fences) Means of Enclosure), 9 (Surface Water Drainage ('SuDS') System), 10 (SuDS during construction), 11 (SuDS Management), 13 (Cycle Storage), 14 (Ecological Mitigation Statement), 15 (Construction Method Statement), 16 (Noise Mitigation), 17 (Refuse / Recycling), 18 (External Lighting). The applicant will need to submit discharge of conditions application(s) to the Council and gain approval for all these matters prior to the commencement of development. The remaining six planning conditions establish the scope of the planning permission, or are compliance conditions.

Proposal

- 6.6 The submitted application seeks the approval of Reserved Matters for Appearance, Landscaping, Layout, and Scale, pursuant to condition 1 imposed upon the grant of outline planning permission 15/01710/OUT.
- 6.7 The description of the outline aspect of the proposed development for 15/01710/OUT, as approved by the Planning Inspector, proposed the demolition of one dwelling and erection

of up to 110 no. residential units. The means of accessing the site was approved as part of the Outline planning application. The approved vehicular access to the site will be a new priority junction formed off Thorpe Road, on the site of the bungalow that is to be demolished at no.171 Thorpe Road. The access road shall comprise a 5.5-metre-wide carriageway with 2-metre-wide footways to either side.

6.8 Following discussions between the applicant and Officers, revisions have been made to the application as originally submitted, and include amended drawings as well as additional or revised documents. The application submission comprises:

- Planning application form;
- Constraints Plan;
- Master Plan;
- Phasing Plan;
- Location Plan;
- Topographical Survey;
- Block Plan;
- Amenity Plan;
- Refuse Collection Plan;
- Heights Plan;
- Fence Plan;
- Parking Plan;
- Tenure Plan;
- Elevations and Floor Plans for each house type; apartment block and garage;
- Cycle / Refuse Store / Sub Station Plan;
- Street Scenes;
- Materials Plan;
- SuDS Drainage Plan;
- Highways and Surface Finish Plan;
- Design & Access Statement & Revised Design and Access Statement;
- Soft Landscape Plans;
- Circular Dog Walking Plan;
- Tree Protection Order Reference Plan and tree protection details; and
- Barn Owl Ecological Advice Note

6.9 Following discussions with the applicant the proposed development has been amended. The principle revisions to the original submission are summarised thus:

- Relocating two storey buildings from the rear of properties on Chapel Lane and replacing the two storey apartment buildings with one and half storey buildings at the rear of properties on Thorpe Road;
- Relocating Affordable Housing units so that they are not clustered just in the south east corner of the site;
- Elevational changes to some house types, including the apartment blocks;
- Equipped play area (LAP) added to the plans for the Central Green;
- Amendments to the road types to conform with the Highway Authority's current standards;
- Redesigning Apartment Block 2 and substituting 4no 1-bed flats, for 4no 2-bed flats (market housing)
- Further minor revisions to the mix of market bungalows – substituting 2no 3-bed bungalows for 2no 2-bed bungalows. The mix of housing now proposed is:

Market Housing – 97 Units

4 x 1-bed flats

2 x 2-bed flats

6 x 2-bed houses

34 x 2-bed bungalows
51 x 3-bed bungalows

Affordable Housing – 8 Units

4 x 2-bed flats
2 x 2-bed houses
2 x 4-bed houses

- 6.10 In totality, the proposal comprises: Vehicle access to the residential development from a new priority junction on Thorpe Road on the site of the bungalow at no.171 Thorpe Road which will be demolished leading to a 5.5m wide road, Formation of two pedestrian links from the site to Thorpe Road (via the access to no.157 Thorpe Road – which is to be demolished – and between 127 & 129 Thorpe Road) and one further pedestrian to Church Lane (between 22 & 24 Church Lane); Construction of 105no dwellings including 8no affordable housing units; The provision of public open spaces, including a children's play area; Formation of SUDs, including the construction of an attenuation basin as part of the Central Green; Landscaping and ecological mitigation; and Associated parking and access.
- 6.11 The main planning considerations for this reserved matters application are:
- Access and Highways;
 - Design (Layout, Scale and Appearance);
 - Impact on Heritage Assets
 - Living Conditions;
 - Landscaping and Ecology; and
 - Section 106 of the Town and Country Planning Act 1990

Access and Highways

- 6.12 Where concerning the promotion of sustainable transport, the NPPF in para. 103 states that the planning system should actively manage patterns of growth; and that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport.
- 6.13 The site already has outline planning permission. Having considered the location of the development and the level of services and public transport available in the village the Planning Inspector was satisfied that the site is in a sustainable location by virtue of its accessibility.
- 6.14 As well as establishing the principle of residential development of the site access was also approved as part of the outline planning permission. A number of objectors have referred to the highway access arrangements to the site, claiming that this will be unsafe and that traffic speeds on Thorpe Road will make the access unsafe. The Highway Authority were satisfied with the access arrangements and raised no objection to the outline planning application. The access arrangements and highway capacity were considered by the Planning Inspector. Having reviewed the applicants Transport Statement and the Highway Authority recommendation the Inspector concluded that, subject to planning conditions, the development would be acceptable in terms of highway safety and granted the outline planning permission with access approved. As a result, the vehicular access to the site and highway capacity are not matters that the Council can consider as part of this Reserved Matters application.

- 6.15 In addition, to the new priority junction that will be constructed to provide vehicular access to the site, the applicant also proposed to provide three additional footway links from the site to surrounding roads – two separate links onto Thorpe Road and a further link to the east, to connect to Chapel Lane – which will encourage residents to walk and cycle for short journeys.
- 6.16 To further encourage residents to use more sustainable means of transport, condition no.12 of the outline planning permission requires the upgrading of the two bus stops on Thorpe Road, west of its junction with Chapel and the provision of a Residential Travel Information Pack for sustainable transport, to the first occupier of each new dwelling.
- 6.17 The Highway Authority have been consulted on this reserved matters application and they identified a number of issues regarding the internal estate roads and the road types that were being originally proposed. Following receipt of the Highway Authority comments the applicant has amended the development layout and provided footways, or shared surface roads, in accordance with the Highway Authority's requirements. Having reviewed the revised proposals, they state from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to a series of conditions covering the design and construction of internal roads and footways; the design and provision of vehicle and cycle parking spaces; a Construction Method Statement which will cover access arrangements for construction traffic (this is already covered by Condition 15 of the Outline Planning Permission and so doesn't need to be replicated); and that there be no new planting within 1 metre of the highway or visibility splays. A further condition is recommended requiring the provision of Residential Travel Information Packs to the first occupants of the new dwellings but this has already been covered by a condition that forms part of the Outline Planning Permission.
- 6.18 Consequently, from a highway and transportation perspective the impact of the proposal is deemed acceptable to the Highway Authority subject to the imposition of conditions as highlighted within the summary of their consultation response above.
- 6.19 Adopted Local Plan Policy TR7 states that in new residential development there will be a requirement that the parking is provided in accordance with the Council's adopted Parking Standards. The adopted parking standards state that a minimum of 1 space per dwelling should be provided for 1-bedroom dwellings and a minimum of 2 spaces per dwelling should be provided for 2 and more bedroom dwellings. Also 0.25 space per dwelling is required for visitor parking. Parking spaces should measure 5.5 metres by 2.9 metres and garages, where to be counted towards parking provision should measure 7 metres by 3 metres. The proposed development has been laid out in a manner that largely adheres to these standards. The only area where there is not complete compliance is in respect of the visitor parking. The parking plan shows 25 visitor parking spaces but the standards would require the provision of 26 visitor parking spaces – a shortfall of 1 visitor parking space. Plots 6, 7 and 14 each have three off street parking spaces and are therefore in excess of the standard requirement, this is considered to offset the deficit of one visitor parking space across the development.
- 6.20 A number of objectors refer to the development having inadequate car parking provision even though all dwellings have been provided with the required number of parking spaces to meet the Council's adopted standards. Some of these objections may be on the grounds that some properties have one of their parking spaces in a garage but this is permissible as the internal size of the garage complies with the Council's standards. For properties with 3-bedrooms and where the second parking space is being provided within a garage it is recommended that permitted development rights are withdrawn to ensure that the parking space is retained for its intended purpose.

- 6.21 The site is bordered by the railway line to the south of the site and there is a pedestrian level crossing a short distance from the site, off Chapel Lane. A number of objection letters refer to safety concerns as they believe that the crossings will be used more frequently as a result of the development, with some expressing a particular concern about children playing on the railway crossings.
- 6.22 Network Rail raised no objection to the outline planning application but have registered an objection to this reserved matters application due to the direct footpath link to Chapel Lane, and the publication of a circular walking route over two level crossings as this would increase the use of the crossings and this increases the risk of accidents.
- 6.23 Network Rail have suggested that if the dog walking route that is to be publicised for use by future residents, as part of the ecological mitigation, were to be altered so that it did not cross the railway they would be satisfied. Officers accept that it is possible that future occupants of these properties may use the crossings to access the countryside to the south but the level crossings are an existing situation and the increase in use, and potential resulting increase in risk, arising directly from the development is not considered to be sufficient to justify the developer being required to fund a footbridge over the railway line so that the crossings can be closed. Network Rail regularly assess railway crossings for safety and can ultimately apply to close the crossing, or provide alternative means of crossing the line, if public safety necessitates this. The outline planning permission requires that the developer produce residential travel information packs that will be provided to the first occupier of each new dwelling. In light of Network Rail's concerns Officers recommend that a condition is added that requires that the Travel Information include information on the risks of crossing the railway line and how to use the level crossing safely.
- 6.24 It is noted that Network Rail also express concern that the development may also create an increase in footfall to the station which may create capacity issues at the station. The planning system seeks to locate development in locations where residents have access to a range of sustainable transport modes, including railway stations. Furthermore, it is not considered that the 105 dwellings proposed would generate such an increase in footfall at the station that specific measures would be required to mitigate that impact. Furthermore this issue was not raised at the time of the outline planning application.
- 6.25 In summary, the layout of the development is acceptable, adhering to relevant standards in respect of road design and car parking. The applicant has also demonstrated that pedestrian links will be provided that will link the new development to the existing settlement and its services and facilities.

Design (Layout, Scale and Appearance)

- 6.26 Paragraph 124 of the NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Furthermore, Part 11 of the NPPF indicates that development should contribute to and enhance the natural environment and that impacts on biodiversity should be minimised.
- 6.27 Only the vehicular access to the site was approved by the Planning Inspector when outline planning permission was granted. There were no other approved drawings listed in the decision letter and there was no masterplan or parameters plan which fixed the layout or scale of the development.
- 6.28 Following detailed discussions with Officers during the course of this application the scheme now proposes to provide 4no 1 bed flats; 6no 2-bed flats; 8no 2-bed houses; 34no 2-bed bungalows; 51no 3-bed bungalows and 2no 4-bed houses. The layout has been created using 12no house/bungalow and individual designs for each of the three apartment

blocks. The housing stock in the village features a high percentage of bungalows and this can be clearly seen at the western end of Thorpe Road where bungalows often sit within very large plots. A limited number of two storey buildings are proposed to provide a suitable mix of housing for a site of this size. Given that the development will be predominantly single storey dwellings careful consideration has been given to the design and location of two storey dwellings. Following discussions with Officers the apartment buildings have been redesigned as one and a half storey buildings so that their scale and appearance is more in keeping with the surrounding dwellings.

- 6.29 In terms of design, given this site's setting on the edge of the settlement and its context, it was considered that a traditional design approach was appropriate. The proposed dwellings generally have a traditional appearance and it is proposed that a simple palette of materials is proposed with two different facing bricks being the predominant material, with weatherboarding and render used to provide variation and visual interest. Pitched roofs are proposed covered in concrete pantiles. Some of the house types feature architectural features including brickwork detailing, bay windows, chimneys and door canopy detailing. The housing mix and house types are considered appropriate and reflective of local character and distinctiveness.
- 6.30 The Council's Waste Management team have been consulted on the application. They have raised no objection subject to the usual requirements to ensure that refuse and recycling can be appropriately stored and collected from the development. The layout allows for the suitable storage of refuse and recycling bins, often within the proposed garages. Condition 17 of the Outline Planning permission requires the submission of details of refuse storage and collection points. The applicant will need to provide further details to discharge this condition, including demonstrating that residents and refuse collections crews only have to carry refuse / recycling an appropriate distance and that there are appropriately located and designed refuse collection points.
- 6.31 In conclusion on this issue it is considered that the proposal provides an acceptable layout and detailed design in compliance with the NPPF and the development plan.

Impact on Heritage Assets

- 6.32 Policy EN23 of the adopted 2007 Local Plan states development affecting a listed building or its setting will only be permitted where it, amongst other things, does not have an unacceptable effect on the special architectural or historic character and appearance of the building or its setting. These sentiments are echoed in Policy PLA8 of the draft Local Plan. The NPPF also attaches great importance to the protection of the historic environment, including designated heritage assets such as Conservation Areas and Listed Buildings.
- 6.33 The site is not located within a Conservation Area but No. 127 Thorpe Road, also known as Mill House, is a Grade II listed building (formerly listed as group of 3 thatched cottages west of Methodist Chapel). The listing states the building dates to the 16th Century with 17th Century alterations. The listed building is adjacent to the proposed footpath link to the north east of the site. The applicant submitted a Heritage Statement as part of the outline planning application which highlighted that the building was already hemmed in by neighbouring properties along Thorpe Road and this had already eroded the setting of the building. The significance of the building lies mainly in its surviving architectural features and on the basis that the current scheme does not propose any physical changes to this property, Officers accept that the development would preserve the buildings significance. It should also be noted that the proposed buildings to the rear of the Mill House are bungalows, which will also minimise the potential impact on the setting of the listed building.
- 6.34 Paragraph 196 of the NPPF states that where development proposals will lead to 'less than substantial harm' to a designated heritage asset, this harm should be weighed against the

public benefits of the proposal. Officers again consider that the proposed development would not result in any significant harm to either the building itself or its wider setting that would outweigh the public benefits, mainly in respect of housing provision, of the current scheme.

Living Conditions

- 6.35 NPPF para. 127 states that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.36 As stated above the development will consist of predominantly bungalows. By using standard 1.8m high closed board fences (or walls to prominent plots) single storey accommodation can usually be effectively built without existing neighbouring properties suffering an unacceptable loss of privacy, or significant issues with loss of light or overshadowing. The only dwellings that have two storeys of accommodation are the flats and a small cluster of two storey houses in the south east corner. The apartment blocks have been located so that they back onto properties on Thorpe Road, where properties enjoy long rear gardens. The applicant has produced an Amenity Plan which shows that for most properties there will be in excess of 35m between new dwellings and the rear elevation of existing properties on Thorpe Road. Officers consider that this arrangement adequately safeguards existing residents' amenity. The two storey houses back onto the railway line. Plot 61 has a blank side gable that faces towards the neighbouring property on Chapel Lane. Any new openings at first floor level in that elevation would require planning permission unless they are obscure glazed and non-opening above 1.7m, this would therefore protect neighbouring amenity without needing to impose a planning condition.
- 6.37 The Council's Pollution and Environmental Control Team have recommended that details are provided in relation to demolition and construction method statements and external lighting. The outline planning permission contains conditions that seek to control these matters – no.15 Construction Method Statement; and no.18 external lighting. Both conditions must be discharged prior to the commencement of development.
- 6.38 The railway line runs along the southern boundary of the site and the layout proposes that dwellings are erected which back onto the line. The Planning Inspector imposed a condition (no.16) which requires details of noise mitigation measures to ensure that residents in these new properties enjoy a reasonable standard of amenity. These details must be submitted and approved prior to the commencement of development.
- 6.39 Policy HG9 of the adopted Local Plan specifies that private amenity space shall be provided to new dwellings with dwellings with three or more-bedroom house requiring a minimum of 100 square metres; two-bedroom houses - a minimum of 75 square metres; and for flats a minimum of 25 square metres per flat provided communally. As shown on the submitted amenity plan, each house would be provided with a private garden/sitting out area and the table on that plan demonstrates that all the houses and bungalows have private amenity space that would meet or exceed the Council's adopted standards.
- 6.40 Policy HG9 requires that the ten apartments would collectively require 250 square metres of communal amenity space. The three apartment blocks are clustered together and following discussions with Officers the mix of units and the layout has been revised to allow the provision of a 250 square metre communal garden area around the protected English Oak tree (T7). This area is to be enclosed by 1.2 metre high hoop top railings with shrub planting internally to provide a semi-private amenity area for use by the occupants of the apartments. This solution will provide an acceptable boundary treatment to this prominent corner which also forms a boundary to one of the footpaths up to Thorpe Road.

Landscaping and Ecology

- 6.41 Part 15 of the NPPF indicates that development should contribute to and enhance the natural environment and that impacts on biodiversity should be minimised.
- 6.42 The main body of the application site is set to grass that has become overgrown since the use of the site for the keeping of horses ceased.
- 6.43 The site contains several mature trees on and close to site boundaries and within the centrally situated hedgerow. There are two Tree Preservation Orders on the site – The trees covered by the 1998 order (TPO/98/19) are predominantly English Oaks that are situated to the north of the westernmost section of the application site intended for use as a public open space and attenuation pond. The second order, which was made in 2016 (16/01/TPO) protects 1 Ash and 10 Oak trees, situated on the eastern boundary of the land and in the hedgerow that runs from north to south, to the south of 155 Thorpe Road.
- 6.44 The Council's Tree and Landscape Officer raised concerns with the original submission – specifically that there was insufficient information to accurately assess the potential impact of development on retained trees and that it was also proposed that tree T7 (English Oak) would be removed to facilitate the development. He objected to the loss of T7 as it is a tree with high amenity value that has a long safe useful life expectancy. The applicant subsequently amended the layout and T7 is now shown to be retained, standing within the amenity space that is provided for use by the occupants of the flats. They have also provided further information to show root protection areas and demonstrate that the trees covered by the TPO will be retained and physically protected for the duration of the construction phase of the proposed development. The information contained on the Existing Tree Preservation Order Reference Plan and Tree Protection Details plan indicates that the trees covered by the TPO can be retained and physically protected for the duration of the construction phase of the proposed development. Condition no.7 on the Outline permission states that no development shall take place until agreed measures for the protection of trees that are to be retained has been submitted and approved and this condition will still need to be discharged. The details of the density and quality of the soft landscaping proposal are also acceptable.
- 6.45 When the Outline planning permission was granted the Inspector considered the potential impact of development on ecology, including protected species. Condition 14 of the Outline planning permission states that no development shall take place until an Ecological Mitigation Scheme and Management Plan has been submitted to and approved by the Council. The scheme shall include survey information to establish whether any protected species would be affected by the development and the detail of any necessary mitigation measures.
- 6.46 During the consideration of this application the Council received a number of representations in respect of a pair of Barn Owls that had been observed at the application site. As these birds had not been observed during the ecological surveys carried out in 2015 for the outline planning application, and to address this specific concern, the applicant was requested to produce a report which considered the likely impact of development on the Barn Owls. The owls were found to be nesting in an old metal and asbestos shed on the site – a structure that would be demolished to facilitate the development. The Council's ecological advisor has reviewed the applicants report and is satisfied that the measures proposed in that report will suitably mitigate for the impact on this protected species. The mitigation originally involved the provision of both an on-site nest box one year prior to demolition of the existing nest building, in an area of open space in the south western corner of the site to which access will be restricted by fencing; and two off-site nest boxes to be provided prior to demolition of the structure containing the nest. The applicant has confirmed that they do not own or control any appropriate sites for the provision of the two

off-site nest boxes. Officers have therefore sought an amended recommendation from the Council's ecological advisor. This confirms that future monitoring of the on-site barn owl box should be controlled by condition. This mitigation forms part of the recommended conditions and therefore provides certainty of the likely impacts on this Protected species.

- 6.47 Representations were also received by the Council in respect of bats that have been observed on and around the site, including one letter from a local resident who stated that the old stables that had been recently knocked down had been a resting hole for bats. Bats are a protected species and destroying a bat roost would be a criminal offence. Whilst Officers noted the findings of two previous ecological surveys on the site had concluded that no buildings on the site had potential as bat roosts, with the sheds and stables being too open or exposed to be suitable, because of the potential seriousness of the claim Officers referred the matter to Essex Police. The Rural and Heritage Crime Officer reviewed the matter but advised Officers that as the Ecologist had not recorded any roosts as being present at the site there was no evidence that a crime had been committed and that they would not be able to investigate further.
- 6.48 The development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped in the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This residential development lies within the Zoi for Hamford Water SPA and Ramsar, Colne Estuary SPA and Ramsar, Blackwater Estuary SPA and Ramsar, Dengie SPA and Ramsar, and Essex Estuaries SAC. Hamford Water SPA and Ramsar site are the closest European sites and are located around 5.7km north-east of the application site. The outline planning permission did not secure a contribution towards RAMS or mitigation to contain recreation within and around the development site. In the contemporary context of the Council's duty as competent authority under the Habitats Regulations, it is anticipated that without mitigation, such new residential development would have a likely significant effect on the sensitive features of the coastal European sites, through increased recreational pressure when considered 'in combination' with other plans and projects. It is considered that the proposal falls within the scope of RAMS as 'relevant development'.
- 6.49 One recommended way of trying to avoid increasing recreational pressures on the coastal European sites is to encourage dog walkers to exercise their dogs near their homes and not drive to the protected sites. The applicant has submitted a plan which shows a number of walking routes that residents of the development can use to exercise their dogs. Given the size of the site the routes include the open space within the site and the adjacent public rights of way network. In light of Network Rail's objection to increased use of the railway crossing to the south east corner of the site, the applicant has provided two more circular walking routes. Route 1 (original route) is 2.65km. Route 2 is 3.2km and uses an alternative second railway crossing point further west and more remote from the railway station. Route 3 is 4.5km and does not include any railway crossings, utilising the public rights of way network to the north of the site. These three routes, to be included within the welcome packs, are considered to provide a good variety of local walks to future residents to reduce pressure on the designated sites.
- 6.50 Natural England state that provided their guidance is adhered to, an 'adverse effect on the integrity' (AEIOI) of the European sites included within the Essex Coast RAMS from increased recreational disturbance can be ruled out subject to the mitigation sought and to be secured by condition and planning obligation.
- 6.51 The Council has produced a Habitat Regulations Assessment (HRA) setting out the mitigation that is proposed – namely the dog walking routes, that will be publicised to new residents, and the provision of a dog waste bin, and a RAMS payment of £122.30 per dwelling (£12,841.50 based on 105 dwellings), is proposed to be included within a Unilateral Undertaking (UU), pursuant to S106 of the Town and Country Planning Act 1990,

to enable to fund strategic off-site measures. These measures should be targeted towards increasing the relevant European sites' resilience to recreational pressure (such as schemes to provide wardens at the protected sites who will help manage and educate visitors) and be in line with the aspirations of the emerging RAMS. A unilateral undertaking to provide the required contribution is currently being completed and an update will be provided at the Planning Committee meeting.

- 6.52 Network Rail raised no objection to the outline planning application but have registered an objection to this application for approval of reserved matters due to the circular walking route over two level crossings as this would increase the use of the crossings and this increases the risk of accidents. Network Rail have suggested that if the dog walking route that is to be publicised for use by future residents, as part of the ecological mitigation, were to be altered so that it did not cross the railway they would be satisfied. Officers accept that it is possible that future occupants of these properties may use the crossings to access the countryside to the south but the level crossings are an existing situation and the increase in use, and potential resulting increase in risk, arising directly from the development is not considered to be sufficient to justify the developer being required to fund a footbridge over the railway line so that the crossings can be closed. The applicant has also now provided a total of three circular walking routes, one of which includes no railway crossings. Network Rail regularly assess railway crossings for safety and can ultimately apply to close the crossing, or provide alternative means of crossing the line, if public safety necessitates this. The outline planning permission requires that the developer produce residential travel information packs that will be provided to the first occupier of each new dwelling. In light of Network Rail's concerns Officers recommend that a condition is added that requires that the Travel Information include information on the risks of crossing the railway line and how to use the level crossing safely.

Section 106 of the Town and Country Planning Act 1990

- 6.53 The Planning Inspector accepted a legal agreement to secure planning obligations as part of the grant of outline planning permission. This specified financial contributions to provide additional capacity for primary education places and the health service. The agreement also covered public open space requirements, including a sum for future maintenance of the Open Space as this will be transferred to the District Council.

Affordable Housing

- 6.54 The agreement specified that affordable housing would be provided on-site, either as 25% of the total number of dwellings erected and transferred to a Registered Provider, or as 8 units which would be transferred to the Council at a nominal charge, in accordance with draft policy LP5 of the emerging local plan. The Council's Housing Officer states they have agreed with the applicant that 8 properties will be gifted to the Council. The affordable homes will be grouped in three separate parts of the site and will provide 4 x 2-Bed Flats; 2 x 4-Bed Houses and 2 x 2-Bed Bungalows.

Open Space Plan and Specification

- 6.55 Schedule 3 of the legal agreement requires the applicant to submit an Open Space Plan and a specification for the setting out of the Open Space and Local Area of Play (LAP) and for these to be approved by the Council prior to the commencement of development. The planning drawings show that a 'Local Area of Play' (LAP) is to be provided as part of the central green. The legal agreement does not require submission of these documents as part of the Reserved Matters application and these will need to be submitted and agreed prior to the commencement of development.

- 6.56 The Primary Education contribution relates to all properties (including flats) of two bedrooms or more. This represents 101 properties in this detailed proposal which subject to the formulas in the S106 would represent around £321,740 (index linked) towards the provision/improvement of primary education facilities for Kirby Primary Academy, Hamford Primary Academy, and/or Frinton-on-Sea Primary School. The healthcare contribution is £33,300 for additional healthcare services at Thorpe Surgery and/or Caradoc Surgery.

Other Matters

Drainage

- 6.57 The Inspector considered the issue of surface water drainage as part of their consideration of the application for Outline planning permission. They concluded that it had been demonstrated that the appellant had presented a feasible surface water drainage strategy for the site. A condition was imposed as part of the Outline planning permission (Condition no.9) which states that no development shall take place until a detailed surface water drainage scheme has been submitted to and approved by the Council. This condition means that the applicant has not been required to provide these details as part of this application for approval of Reserved Matters. The Lead Local Flood Authority – Essex County Council – will assess the detailed scheme when it is submitted and development cannot commence until such time as the scheme is approved.
- 6.58 It should be noted that at the time when the outline application was originally submitted climate change predictions suggested that in order for a development to appropriately manage changes to rainfall a 30% allowance should be made for climate change. Subsequent revisions of the Environment Agency's climate change provisions suggest that 40% would be more appropriate and the Council will require that the detailed scheme is designed to accommodate higher volumes in line with the updated climate change allowances.
- 6.59 In respect of foul water drainage in December 2015 Anglian Water advised that the waste water treatment centre and the network of sewers connecting the site to the treatment centre had capacity to accept the foul water flows from the development. Anglian Water now advise that there would be a risk of flooding as the sewers now have insufficient capacity to accommodate the flows safely and they recommend conditions requiring submission of a phasing plan for the development and the agreement and implementation of a foul water drainage strategy. The outline planning permission already requires the submission and agreement of a phasing plan but it is recommended that a condition is added requiring the applicant to agree foul water drainage works prior to the occupation of any phase.

7. Conclusion

- 7.1 The application site lies outside the adopted settlement development boundary but the principle of residential development has been firmly established by a Planning Inspector in granting an outline planning permission to develop the site for up to 110 dwellings.
- 7.2 The submitted application seeks the approval of Reserved Matters (relating to appearance, landscaping, layout and scale) for 105 dwellings pursuant to condition 1 of planning permission ref: 15/01710/OUT.
- 7.3 From a highway and transportation perspective the access arrangements were approved through the Outline planning permission. The Highway Authority have advised that they have no objection to the application, subject to the imposition of conditions. Although the development will be on the edge of the settlement the vehicular access and three

pedestrian paths will mean that the development is well related to the existing village and its services and that residents will have access to public transport.

7.4 It is now considered that following discussions with Officers and the submission of revised plans the scale, layout, density, height and massing of the proposed dwellings and overall elevation designs are now acceptable. The character and appearance of the dwellings would be in broad harmony with the character and appearance of the surrounding area.

7.5 In addition, following amendments to the scheme, it is considered that the landscaping of the site would be appropriate and with regard to ecology, mitigation measures to enable increasing the relevant European sites' resilience to recreational pressure would be in line with the aspirations of the emerging RAMS, and the impact upon Barn Owls will be acceptably mitigated.

8. **Recommendation**

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per new dwelling

8.2 **Conditions and Reasons**

1. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Site Location Plan - 1370/P/01
 Master Plan - 1370/P/02 Rev P8
 Block Plan – 1370/P/03 Rev P7
 Amenity Plan - 1370/P/05 Rev P8
 Heights Plan - 1370/P/08 Rev P7
 Parking Plan - 1370/P/10 Rev P7
 Tenure Plan - 1370/P/11 Rev P7
 Highways Plan - 1370/P/12 Rev P7
 TPO Reference Plan and Protection - 1370/P/15 P6
 Circular Dog Walking Route 1 - 1370/P/16 Rev P1
 Circular Dog Walking Route 2 - 1370/P/17
 Circular Dog Walking Route 3 – 1370/P18
 Housetype A - 1370/P/A/01
 Housetype B - Affordable - 1370/P/B/01 Rev P1
 Housetype C - 1370/P/C/01 – Rev P1
 Housetype C1 - 1370/P/C1/01
 Housetype C1 - Affordable - 1370/P/C1/01/A
 Housetype D - 1370/P/D1/01 Rev P1
 Housetype D1 - 1370/P/D1/01
 Housetype D2 - 1370/P/D2/01
 Housetype E - 1370/P/E/01
 Housetype E1 - 1370/P/E1/01
 Housetype F - 1370/P/F/01
 Apartment Block 1 – Floor Plans and Elevations - 1370/P/APT1/01 Rev P2
 Apartment Block 2 – Affordable - Floor Plans and Elevations - 1370/P/APT2/01 Rev P3
 Apartment Block 3 Elevations - 1370/P/APT3/02 Rev P3

Apartment Block 3 Floor Plans - 1370-P-APT3-01 Rev P3
Garage Types - 1370-P-G-01
Sub-Station - 1370/P/S/01 Rev P2
Street Scenes Sheet 1 of 3 - 1370/P/30 Rev P5
Street Scenes Sheet 2 of 3 – 1370/P/31 Rev P2
Street Scenes Sheet 3 of 3 - 1370/P/32 Rev P1
Soft Landscape Proposals 1 of 3 - MC/1511/18/02 A
Soft Landscape Proposals 2 of 3 - MC/1511/18/03 A
Soft Landscape Proposals 3 of 3 - MC/1511/18/01 A
Barn Owl Ecological Advice Note (SES, March 2019)

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

2. Prior to commencement of any development, including demolition, groundworks and vegetation clearance, the on-site mitigation and pre-demolition survey shall be carried out in full accordance with the details contained in the Barn Owl Ecological Advice Note (SES, March 2019). The works shall be undertaken by an appropriately competent person e.g. a suitably qualified ecologist holding a Natural England Barn Owl Licence, to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details in the Barn Owl Ecological Advice Note.

Reason: To conserve Protected species and allow the LPA to discharge its duties under the Wildlife and Countryside Act 1981 as amended and s17 Crime & Disorder Act 1998 (wildlife crime).

3. Prior to commencement of any development, including demolition, groundworks and vegetation clearance, a biodiversity monitoring strategy for Barn Owls shall have been submitted to, and approved in writing by, the Local Planning Authority. The purpose of the strategy shall be to monitor the success of the replacement nest box for Barn Owls. The content of the Strategy shall include the following.
 - a) Aims and objectives of monitoring to match the stated purpose.
 - b) Identification of adequate baseline conditions prior to the start of development.
 - c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
 - d) Methods for data gathering and analysis.
 - e) Location of monitoring.
 - f) Timing and duration of monitoring.
 - g) Responsible persons and lines of communication.
 - h) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the Local Planning Authority at intervals identified in the strategy. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the Local Planning Authority, and then implemented so that the development still delivers the biodiversity objectives of the originally approved scheme.

The monitoring strategy will be implemented in accordance with the approved details.

Reason: To allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended.

4. Prior to installation of the new Barn Owl nest box, as detailed within the Barn Owl Ecological Advice Note (SES, March 2019), fencing to restrict public access shall

have been erected in accordance with details to have been previously approved in writing by the Local Planning Authority. The fencing shall restrict public access within the application site a minimum of 75 metres from the new Barn Owl nest box. The fencing as approved shall be retained and maintained for the lifetime of the new Barn Owl nest box.

Reason: To allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended.

5. Prior to the occupation of each dwelling the internal road and footway serving that dwelling shall have been provided in precise accord with drawing numbers 1370/P/03 Rev P7 and 1370/P/12 Rev P7.

Reason: To ensure acceptable vehicle and pedestrian access to each dwelling.

6. Prior to the commencement of any above ground works, details of the estate roads and footways, including the three footway links proposed to Thorpe Road and Chapel Lane (including layout, levels, gradients, surfacing, **soft landscaping, bollards** and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

7. Prior to the commencement of any above ground works, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been completed in full accordance with the approved scheme.

Reason: To prevent environmental and amenity problems arising from flooding.

8. Prior to the commencement of any above ground works, details of the number, location and design of a covered parking facility for bicycles for each dwelling without a garage shall have been submitted to and approved in writing by the Local Planning Authority. The approved facility shall be provided prior to the first occupation of each respective unit and retained as approved thereafter.

Reason: To ensure appropriate cycle parking is provided to encourage cycling as a means of sustainable transport.

9. No dwelling shall be occupied until such time as its car parking/garaging and turning area as shown on the approved plans has been provided. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

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

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

11. Prior to occupation of Plots 26, 27, 28 or 29 the pedestrian link between the estate road and Thorpe Road, and running between no. 155 Thorpe Road and no. 159 Thorpe Road, shall have been constructed in accordance with the approved details and shall be available for public access and thereafter retained and maintained in the approved form.

Reason: To ensure footways are constructed to an acceptable standard and available for the public to use, to encourage more sustainable modes of transport and to reduce reliance on the private car.

12. Prior to occupation of Plots 49, 50 or 51 the pedestrian link between the estate road and Thorpe Road, and running between no. 129 Thorpe Road and no. 127 Thorpe Road, shall have been constructed in accordance with the approved details and shall be available for public access and thereafter retained and maintained in the approved form.

Reason: To ensure footways are constructed to an acceptable standard and available for the public to use, to encourage more sustainable modes of transport and to reduce reliance on the private car.

13. Prior to occupation of Plots 58, 59, 60, 61, 62, 63 or 64 the pedestrian link between the estate road and Chapel Lane, running between no. 22 Chapel Lane and no. 24 Chapel Lane, shall have been constructed in accordance with the approved details and be available for public access and thereafter retained and maintained in the approved form.

Reason: To ensure footways are constructed to an acceptable standard and available for the public to use, to encourage more sustainable modes of transport and to reduce reliance on the private car.

14. The Residential Travel Packs that are to be provided pursuant to Condition no.12 of planning permission 15/01710/OUT, shall include the following;
 - a) Information regarding the safe use of level crossings over the railway lines and the dangers of failing to use them properly.
 - b) Details of the three circular walking routes to and from the site, which can be used by residents along with specific encouragement for dog walkers to use these routes.

As required by condition no.12 of planning permission (15/01710/OUT) the Residential Travel Information Packs shall have been previously submitted to and approved in writing by the local planning authority, and shall be provided to the first occupant of each new dwelling.

Reason: To promote the safe use of railway level crossings and to encourage the future residents to remain on-site for day to day recreation/dog walking, so as to minimise pressures upon Hamford Water SPA and Ramsar, Colne Estuary SPA and Ramsar, Blackwater Estuary SPA and Ramsar, Dengie SPA and Ramsar, and Essex Estuaries SAC pursuant to the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy.

15. The scheme of landscaping as shown on drawing numbers MC/1511/18/02 A, MC/1511/18/03 A and MC/1511/18/01 A, or such other scheme as may be agreed in writing by the local planning authority, shall be carried out during the first available planting season after the commencement of the development. Any trees or plants

which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.

Reason: To ensure a satisfactory scheme of hard and soft landscaping to enhance the appearance of the development.

- 16. Prior to the commencement of any above ground works, full details of the route of the underground power line shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**

Reason: As insufficient information has been provided with the application, in the interests of visual and residential amenity, and the Grade II listed building Mill House at 127 Thorpe Road.

8.3 Informatives

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

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

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

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

3) Prior to occupation, the development shall be served by a system of operational street lighting of design approved from the Highway Authority along the Primary route, which shall thereafter be maintained in good repair.

4) Any tree planting proposed within the highway must be agreed with the Highway Authority. Trees must be sited clear of all underground services and visibility splays and

must be sympathetic to the street lighting scheme. All proposed tree planting must be supported by a commuted sum to cover the cost of future maintenance, to be agreed with the Highway Authority.

5) Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

6) Anglian Water advise that they have assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore, the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

7) Given the close proximity to the operational railway line, if and before any works are undertaken the developer would need to engage with the ASPRO team (AssetProtectionAnglia@networkrail.co.uk) to ensure the protection of the railway line.

8) Legal Agreement Informative - Recreational Impact Mitigation

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.

- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

None.