

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	12/11/2019
Planning Development Manager authorisation:	AN	12/11/19
Admin checks / despatch completed	CC	12/11/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	SB	12/11/2019

Application: 19/01328/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr & Mrs Thomas Impey and Northover Contracts Ltd

Address: Popses 1 The Street Kirby Le Soken

Development: Sub-division of site to form separate building plot, erection of detached bungalow and new vehicular access onto The Street.

1. Town / Parish Council

Frinton and Walton Town Council Approval

2. Consultation Responses

Essex County Council Archaeology The Essex Historic Environment Record (HER) and Tendring Historic Environment Characterisation Project, demonstrate that the proposed development lies within an area of archaeological interest.

The proposed development lies within the core of the historic settlement at Kirby le Soken and adjacent to the Conservation Area. The proposal lies within the grounds of a historic building which predates the 1st edition OS maps and lies east of the parish Church of St. Michael, which dates to the 14th/ 15th century. The site of Kirby Hall lies to the west of the Church which is often characteristic of a medieval settlement pattern. The proposal lies along the street frontage and there is potential for evidence relating to the medieval or earlier settlement of the area within the development site.

The following recommendations are made in line with the Department for Communities and Local Government National Planning Policy Framework:

RECOMMENDATION: A Programme of Trial Trenching followed by open area excavation

1. No development or preliminary ground-works can commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ through re-design of the development, shall be submitted to the local planning authority.

2. No development or preliminary groundwork can commence on those areas of the development site containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been signed off by the local planning authority.
3. Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the planning authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason for recommendation

The Tendring Historic Environment Characterisation project and Essex HER show that the proposed development is located within an area with potential for below ground archaeological deposits.

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. The archaeological work will comprise initial trial trenching evaluation. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

Essex County Council
Heritage

The application is for sub-division of site to form separate building plot, erection of detached bungalow and new vehicular access onto The Street.

The Popses is a historic building and considered a non-designated heritage asset.

I do not support this application. This will have an adverse effect on the setting and significance of the Popses, developing a new property in the immediate environs of this heritage asset. This harm should be considered in context of paragraph 197 of the NPPF.

I do not support the application in principle. However, I do not consider this application compliant with paragraph 189 of the NPPF and no information is provided pertaining to the significance of heritage asset's affected.

ECC Highways Dept

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

1. Prior to occupation of the development, the proposed vehicle access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 45 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the proposed vehicle access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

2. Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

3. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

Note: A minimum distance of 6 metres will be required behind the proposed parking bays shown on drawing no. Pts-02 A to enable vehicles to enter and leave the highway in forward gear.

4. No unbound material shall be used in the surface treatment of the vehicular access throughout.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

5. Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall be a maximum of 4.5 metres (5 low kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

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

6. There shall be no discharge of surface water onto the Highway.
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

7. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

8. The Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

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

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

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 2: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

Informative 3: 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.

3. Planning History

02/00153/FUL	Demolition of existing garden room and construction of ground floor cloaks, utility and new garden room	Approved	04.03.2002
17/00041/FUL	Proposed single storey side/rear extension.	Approved	13.03.2017

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

EN6 Biodiversity

EN17 Conservation Areas

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL4 Biodiversity and Geodiversity

PPL8 Conservation Areas

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Status of the Local Plan

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

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application relates to the property known as Popses, 1 The Street, Kirby Le Soken. The property is located on the southern side of The Street within the Settlement Development Boundary of Kirby Le Soken, within the parish of Frinton and Walton. Approximately 40 metres to the north-west of the site is the Kirby Le Soken Conservation Area.

The application site itself occupies the north-west corner of the plot to the eastern side of the existing access measuring approximately 0.05. The site currently forms part of the well vegetated front garden area serving Popses.

Description of Proposal

The application seeks full planning permission for the sub-division of site to form a separate building plot and the erection of a 3 bedroom detached bungalow and a new vehicular access onto The Street.

Assessment

The main considerations in this instance are;

- Principle of Residential Development;
- Design and Impact (including impact on the Heritage Assets);
- Residential Amenities;
- Trees and Landscaping;
- Financial Contributions - RAMS
- Financial Contributions - Open/Play Space
- Access, Parking and Highway Safety; and,
- Representations.

Principle of Residential Development

The site is situated within the Kirby Le Soken Settlement Development Boundary (SDB) as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Policy HG3 of the adopted Tendring District Local Plan 2007 states that within defined development boundaries of towns and villages, residential development will be permitted provided it satisfies amenity, design and highway safety criteria, as appropriate, and can take place without material harm to the character of the local area including the impact upon heritage assets. Policy SPL2 within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 is the equivalent policy and therefore echoes the aims of Policy HG3.

The principle of the residential development on the site is therefore acceptable in principle subject to further assessment of the development against other relevant national and local plan policies as detailed below.

Design and Impact (including impact on the Heritage Assets)

Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Paragraph 127 of the NPPF states that planning decisions should ensure that developments add to the overall quality of the area and are sympathetic to local character and history, including the surrounding built environment. Policy QL9 of the Tendring District Local Plan (2007) and Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that all new development makes a positive contribution to the quality of the local environment and protect and enhance local character and distinctiveness.

Paragraph 184 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Paragraph 197 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining an application.

Saved Policy EN17 of the adopted Tendring District Local Plan (2007) states that development located outside a conservation area will be refused where it would prejudice the setting and surroundings of a conservation area or harm the inward or outward views.

In addition, Saved Policy HG14 of the adopted Tendring District Local Plan (2007) states that proposals for new dwellings will be required to retain appropriate open space between the dwelling and the side boundaries of the plot to ensure that new development is appropriate in its setting and does not create a cramped appearance. As a guideline, a minimum distance of 1 metre will be sought and where circumstances warrant it, a greater distance will be expected.

The donor property occupies a generous plot when compared to the closer knit built form surrounding the site. The site frontage is approximately 30 metres wide featuring mature hedgerows and vegetation complementing the setting of Popses. The dwelling is set back from the highway by approximately 35 metres with views possible from the existing access driveway. This property is the only dwelling that fronts The Street in the immediate locality with the adjacent dwellings to either side fronting Halstead Road and Briarfields. Popses is a pleasant cottage style dwelling with rendered walls under a plain tiled roof estimated to have been built in the 1700's and is considered to be a non-designated heritage asset where Paragraph 197 of the NPPF becomes relevant. The dwelling and its setting make a positive contribution to the street scene, character of the area and views from the adjacent Kirby Le Soken Conservation Area.

There are examples of bungalows further to the west fronting The Street, however, Briarfields and Halstead Road are predominately characterised by 2 storey dwellings with the immediately adjacent dwelling, 251 Halstead Road being a chalet style property with rooms in the roof space.

Irrespective of the retention of some of the existing vegetation to the front of the site, the erection of a dwelling forward of Popses would appear out of character with the existing pattern of development and would appear cramped in such close proximity to the rear of 251 Halstead Road. The scale, design and finish of the proposed dwelling fails to reflect the character of the locality. Developing a new property in the immediate environs of this heritage asset would compromise the setting and significance of the Popses to the severe detriment of the character and appearance of the area and setting of the Kirby Le Soken Conservation Area.

The development is unsympathetic to local history and fails to protect or enhance local character and distinctiveness. The application is therefore contrary to the afore-mentioned national and local plan policies.

Residential Amenities

Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy QL10 of the adopted Tendring District Local Plan (2007) requires that all new development should meet functional requirements. In particular the policy states that planning permission will only be granted if; buildings and structures are orientated to ensure adequate daylight, outlook and privacy and provision is made for functional needs including private amenity space. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives. Furthermore, Saved Policy HG14 of the adopted Tendring District Local Plan (2007) states that proposals for new dwellings will be required to retain appropriate open space between the dwelling and the side boundaries of the plot to safeguard the amenities and aspect of adjoining residents. Additionally, Saved Policy HG9 sets out the minimum standards for private amenity space.

The proposed dwelling would be served by 100 square metres of private amenity space. The donor dwelling would retain ample private amenity space to its rear.

The proposed dwelling is located over 15 metres from the neighbouring dwelling to the west, number 1 Briarfields. The separation distance, single storey scale of the proposal and presence of existing mature boundary vegetation ensures that no material harm to the amenities of the occupiers of 1 Briarfields will result from the development.

However, the relationship with the donor dwelling to the rear and 251 Halstead Road to the west are considered unacceptable. Popses is a 2 storey property with first floor windows having direct views into the rear private amenity space of the proposed dwelling. The narrow rear garden area of number 251 Halstead Road, approximately 4 metres in depth, runs the length of the side boundary of the proposed development. The single storey scale and fully hipped roof form does minimise the impact

on sunlight and daylight and no loss or privacy will result. However, the proposed dwelling would be located within 5 metres of the rear windows of number 251 Halstead, at a depth of over 8.5 metres and a height of 5.7 metres therefore appearing overbearing and resulting in a loss of outlook.

The development fails to secure a good standard of amenity for existing and future occupants contrary to the afore-mentioned national and local plan policies.

Trees and Landscaping

The development will not result in the loss of any significant trees or vegetation that merit protection.

Financial Contributions – RAMS

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes a dwelling on a site that lies within the Zone of Influence (Zol) being approximately 700 metres from the Hamford Water Ramsar and SPA. Since the development is for one dwelling only, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Financial Contributions - Open/Play Space

The Council's Open Space Team has been consulted in accordance with the requirements of Saved Policy COM6 of the adopted Tendring District Local Plan and Draft Policy HP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

No contribution is being requested on this occasion.

Access, Parking and Highway Safety

The National Planning Policy Framework 2019 (NPPF) at paragraph 127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area. Furthermore, Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users.

Saved Policy QL10 of the adopted Tendring District Local Plan 2007 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 and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Furthermore, the adopted Essex County Council Parking Standards 2009 set out the requirements for residential development. A dwelling accommodating 2 or more bedrooms requires 2 parking spaces. These spaces should be 5.5m x 2.9m in size. There is no requirement to provide a garage for every new dwelling.

The development includes the creation of a new access to serve the proposed dwelling to the eastern side of the existing access serving the donor dwelling. Some of the existing vegetation would require trimming to achieve appropriate visibility. The site frontage can accommodate 2 parking spaces in accordance with current standards and a turning area. The additional traffic movements associated within one dwelling in this location cannot be considered significant or materially harmful to highway safety.

Essex County Council Highway Authority raise no objection to the development subject to conditions.

Representations

Frinton and Walton Town Council recommend approval.

7 individual letters of objection have been received by neighbouring residents (including Kirby-le-Soken Village Preservation Society). The concerns raised can be summarised and addressed as follows;

- No more housing needed in the area.
- Cramped and out of character.
- Overdevelopment of the site.
- Existing dwelling is of local, historic and architectural importance.
- Harmful to historic character of the dwelling and area.
- Lack of parking.
- Frontage parking is poor design and a garage should be provided.
- Harmful impact on adjacent conservation area.
- Dangerous new access in close proximity to busy junction.
- Fails to preserve or enhance the street scene or area.

These issues are addressed in the main report above.

Conclusion

For the reasons set out above, the development is considered harmful to the character of the area and the setting of a non-designated heritage asset. There are no public benefits that outweigh the identified harm and the application is therefore recommended for refusal.

6. Recommendation

Refusal - Full

7. Reasons for Refusal

- 1 Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Paragraph 127 of the NPPF states that planning decisions should ensure that developments add to the overall quality of the area and are sympathetic to local character and history, including the surrounding built environment. Policy QL9 of the Tendring District Local Plan (2007) and Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that all new development makes a positive contribution to the quality of the local environment and protect and enhance local character and distinctiveness.

Paragraph 184 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Paragraph 197 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining an application.

Saved Policy EN17 of the adopted Tendring District Local Plan (2007) states that development located outside a conservation area will be refused where it would prejudice the setting and surroundings of a conservation area or harm the inward or outward views.

In addition, Saved Policy HG14 of the adopted Tendring District Local Plan (2007) states that proposals for new dwellings will be required to retain appropriate open space between the dwelling and the side boundaries of the plot to ensure that new development is appropriate in its setting and does not create a cramped appearance. As a guideline, a minimum distance of 1 metre will be sought and where circumstances warrant it, a greater distance will be expected.

The donor property occupies a generous plot when compared to the closer knit built form surrounding the site. The site frontage is approximately 30 metres wide featuring mature hedgerows and vegetation complementing the setting of Popses. The dwelling is set back from the highway by approximately 35 metres with views possible from the existing access driveway. This property is the only dwelling that fronts The Street in the immediate locality with the adjacent dwellings to either side fronting Halstead Road and Briarfields. Popses is a pleasant cottage style dwelling with rendered walls under a plain tiled roof estimated to have been built in the 1700's and is considered to be a non-designated heritage asset where Paragraph 197 of the NPPF becomes relevant. The dwelling and its setting make a positive contribution to the street scene, character of the area and views from the adjacent Kirby Le Soken Conservation Area.

There are examples of bungalows further to the west fronting The Street, however, Briarfields and Halstead Road are predominately characterised by 2 storey dwellings with the immediately adjacent dwelling, 251 Halstead Road being a chalet style property with rooms in the roof space.

Irrespective of the retention of some of the existing vegetation to the front of the site, the erection of a dwelling forward of Popses would appear out of character with the existing pattern of development and would appear cramped in such close proximity to the rear of 251 Halstead Road. The scale, design and finish of the proposed dwelling fails to reflect the character of the locality. Developing a new property in the immediate environs of this heritage asset would compromise the setting and significance of the Popses to the severe detriment of the character and appearance of the area and setting of the Kirby Le Soken Conservation Area.

The development is unsympathetic to local history and fails to protect or enhance local character and distinctiveness. The application is therefore contrary to the afore-mentioned national and local plan policies.

- 2 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy QL10 of the adopted Tendring District Local Plan (2007) requires that all new development should meet functional requirements. In particular the policy states that planning permission will only be granted if; buildings and structures are orientated to ensure adequate daylight, outlook and privacy and provision is made for functional needs including private amenity space. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives. Furthermore, Saved Policy HG14 of the adopted Tendring District Local Plan (2007) states that proposals for new dwellings will be required to retain appropriate open space between the dwelling and the side boundaries of the plot to safeguard the amenities and aspect of adjoining residents. Additionally, Saved Policy HG9 sets out the minimum standards for private amenity space.

The relationship with the donor dwelling to the rear and 251 Halstead Road to the west are considered unacceptable. Popses is a 2 storey property with first floor windows having direct views into the rear private amenity space of the proposed dwelling. The narrow rear garden area of number 251 Halstead Road, approximately 4 metres in depth, runs the length of the side boundary of the proposed development. The proposed dwelling would be located within

5 metres of the rear windows of number 251 Halstead, at a depth of over 8.5 metres and a height of 5.7 metres therefore appearing overbearing and resulting in a loss of outlook.

The development fails to secure a good standard of amenity for existing and future occupants contrary to the afore-mentioned national and local plan policies.

- 3 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes a dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 700 metres from the Hamford Water Ramsar and SPA. Since the development is for one dwelling only, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.