

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	19/11/19
Planning Development Manager authorisation:	AN	26/11/19
Admin checks / despatch completed	CC	04.12.19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	EE	04/12/19

Application: 19/01054/OUT **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr P Brown

Address: 185 Thorpe Road Kirby Cross Frinton On Sea

Development: Erection 5no. detached dwellings.

1. Town / Parish Council

Frinton and Walton Town Council Refusal - against such back land developments and shared drives on to a busy road.
Lack of detail due to being an outline application

2. Consultation Responses

ECC Highways Dept The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposed site is located within the existing 30-mph speed limit; The access road will form a private road and retains adequate room and provision for off street parking and turning, for the existing and proposed dwellings therefore:

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 road junction / 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 road junction / 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 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.

3. No unbound material shall be used in the surface treatment of the vehicular access or private drive.

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

4. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Highway Boundary and provided with an appropriate dropped kerb crossing of the verge in line with the proposed access road.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

5. The existing vehicle access as shown on the site layout plan (DWG. 4531 - 0101 P03) shall be suitably and permanently closed incorporating the reinstatement to full height of the footway / verge / kerbing immediately the proposed new access is brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy DM1.

6. Prior to occupation of the development the existing footway across the entire frontage of the site shall be widened to 1.8 metres.

Reason: To make adequate provision within the highway for the continued safe passage of pedestrians in accordance with Policy DM1 as a result of the proposed development.

7. 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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1.

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: 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.

3. Planning History

TRE/98/74	Crown lift G.1	Current	20.11.1998
99/01009/FUL	Change of use to residential care home for 6 adults with physical and learning disabilities and single storey rear extension	Refused	01.09.1999
03/01345/FUL	Proposed granny annexe	Approved	06.08.2003

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN23 Development Within the Proximity of a Listed Building

HG1 Housing Provision

HG9 Private Amenity Space

HG13 Backland Residential Development

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

CP1 Sustainable Transport and Accessibility

HP5 Open Space, Sports & Recreation Facilities

- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP8 Backland Residential Development
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL9 Listed Buildings
- SP1 Presumption in Favour of Sustainable Development
- SPL1 Managing Growth
- SPL3 Sustainable Design
- Local Planning Guidance
- Essex County Council Car Parking Standards - Design and Good Practice
- TR4 Safeguarding and Improving Public Rights of Way

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

Site Description

The application site is land to the rear of 185 Thorpe Road, measuring 0.48 hectares. The site itself is largely laid to grass, with a number of mature trees, shrubs and other plants of a mixed age range. Number 185 Thorpe Road is a single storey detached residential property. The character of the surrounding area is relatively urbanised, with a number of residential properties to the east and west. Under appeal reference APP/P1560/W/16/3150967 planning permission has been granted for up to 110 dwellings adjacent to the east of the application site.

The site falls outside of a recognised Settlement Development Boundary within the Adopted Local Plan, however the access to the site falls within the Settlement Development Boundary for Kirby Cross within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. To the west of the site lies a Public Right of Way.

Description of Proposal

This application seeks outline planning permission for the erection of five residential dwellings. Access is to be considered but all other matters, namely appearance, landscaping, layout and scale, would be determined within a future detailed application.

Site History

While the application site itself has not been the subject of previous planning applications, there has been a notable development adjacent to the east of the site. Under planning reference 15/01710/OUT, up to 110 dwellings were refused planning permission on the grounds that the development would result in the loss of a significant area of open land within the designated Local Green Gap between Kirby Cross and Great Holland.

However, under appeal reference APP/P1560/W/16/3150967 (dated 1 September 2016), this application was allowed at appeal, with the Inspector stating "*I conclude that the proposal would result in some harm to the open setting of the settlement and to the character and appearance of the area but that that harm would be limited. On this basis I give limited weight to that harm.*" A current application (18/01728/DETAIL) to address the detailed matters of the scheme for 105 dwellings has been approved.

Under planning reference 15/00047/OUT, land to the north-east to the rear of Number 154 Thorpe Road was refused planning permission for the erection of nine dwellings following the demolition of the existing bungalow. This was on the grounds that the proposed development would represent an unacceptable form of backland development, without a proper road frontage and a long and narrow vehicular access, out of keeping with the existing pattern and spacing characteristics of

development prevailing in this part of Kirby Cross, harm to neighbouring amenities by additional traffic movements, and potential harm to protected species.

However under appeal reference APP/P1560/W/15/3129861 (dated 25 January 2016) this decision was allowed, with the Inspector stating "*There would be harm to the character of the area because of the 'backland' form of development proposed that is at odds with the general layout of housing nearby. However, the magnitude of this adverse impact would not be great. Indeed, it does not significantly and demonstrably outweigh the social and economic benefits that would occur. As such, according to the Framework, planning permission should be granted.*"

Assessment

1. Principle of development

The application site lies outside of a Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

The National Planning Policy Framework 2019 (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 report, 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.

Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.

Therefore, at this present time, it is correct to assess the housing development on its merits against the sustainable development objectives set out within Paragraph 8 of the NPPF. The economic objective, a social objective and an environmental objective are therefore assessed below.

Economic:

It is considered that the proposal for five dwellings would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants using the nearby facilities, and so meets the economic arm of sustainable development.

Social:

Socially, it is necessary to consider the proximity to services and facilities, such as healthcare, schools, convenience shopping and jobs and whether these would be accessed by sustainable modes of transport. The site is easily accessible on foot to the settlements public transport, shops, schools and employment opportunities. This is evidenced by the fact that a local bus stop is approximately 50m walking distance from the site while the railway station, local shops and a primary school are within a kilometre.

Within the wider Frinton, Walton and Kirby Cross area are other facilities such as a secondary school, healthcare facilities and supermarkets. As already noted, the bus and rail services provide ready access to the further services and employment opportunities. Overall, this site has reasonably good access to services, facilities and public transport, and is considered to meet the social strand of sustainability.

Environmental:

The environmental role is about contributing to protecting and enhancing the natural built and historic environment which is considered below under Impact on Surrounding Area.

Impact on Surrounding Area:

The development involves the construction of five detached dwellings in a 'backland' location to the rear of the established residential frontage along Thorpe Road. With regards to Policy HG13 of the 2007 Local Plan (and echoed in policy LP8 of the draft Local Plan), it states proposals for the residential development of backland sites must comply with the following criteria:

- i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;
- ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;
- iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;
- iv. the proposal does not involve "tandem" development using a shared access;
- v. the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;
- vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and
- vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.

The main problems that can arise as a result of backland development include undermining the established character of an area (especially if similar schemes were to be repeated elsewhere in a locality); dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings.

There must also be proper means of access to backland development, which is safe and convenient for both drivers and pedestrians, with a turning area where necessary to avoid the need for vehicles to reverse onto a public highway. A proposed access should avoid excessive

disturbance or loss of privacy to neighbouring residents through, for example, an access drive passing unreasonably close to an adjoining dwelling. The likely frequency of use by vehicular traffic and the suitability of the access for service vehicles and the emergency services will also be relevant material considerations.

In respect of the policy criteria noted above the development is considered to meet the requirements as follows;

(i) - the site is not within the defined settlement boundary in the adopted or emerging local plans, but is not designated for any particular use;

(ii) - the proposal does include the addition of five dwellings to the rear of 185 Thorpe Road, in an area that would partly include the properties existing private amenity area. However a significant area for private amenity will be retained that is well in excess of the 100sqm requirements of Policy HG9. Further, all new dwellings are on spacious plots that comfortably exceed 100sqm private amenity space. All new and existing dwellings will also have sufficient space for off street parking.

(iii) - the proposed access would be located in between Numbers 185 and 187 Thorpe Road. Essex County Council Highways do not object to the proposal. In terms of the impact upon residential amenity, the access point will be located approximately 1 metres to both properties. While this is in close proximity the noise disturbances as a result of the comings and goings associated with five dwellings is not considered to be excessive enough to warrant a reason for refusal.

(iv) - whilst the access is to be shared, it does not represent a form of tandem development.

(v) - the site is of a regular shape and would not compromise a more comprehensive development solution.

(vi) - the development of the site would not form a hard urban edge to the settlement as the land is surrounded by residential development to the north-east and north-west. Further, adjacent to the east a planning appeal was allowed for the erection of up to 110 dwellings. This further encloses the site and ensures the proposed five dwellings would not form a hard urban edge.

(vii) - the development would not set a harmful precedent as, following the recent appeal decision, there is planning permission for the erection of up to 110 dwellings to the east of the site. There is further development previously allowed at appeal to the north-east of the site that is sited to the rear of the main building line along Thorpe Road. Therefore it is considered the precedent for this form of development has previously been set, and the additional five dwellings being proposed would not significant add to this.

3. Heritage Impact

Paragraph 189 of the National Planning Policy Framework (2019) states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.

Paragraph 196 of the National Planning Policy Framework (2019) states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Policy EN23 of the Adopted Plan states that development within the proximity of a Listed Building that would adversely affect the setting of a Listed Building, including group value and long distance views, will not be permitted. The sentiments of this policy are carried forward within policy PPL9 of the Emerging Plan.

The application site is located near to a number of Listed Buildings. To the north-west is White Ladies, a Grade II Listed Building, while across the road to the north is 178 Thorpe Road and to the north-west Bluehouse Farmhouse, both of which are also Grade II listed. Accordingly a Heritage Statement has been provided by the agent for the application with the supporting statement.

Given the proposed development will be sited some distance apart from all of these buildings, will not be publically visible from the street scene, and will not harm any existing views of these protected buildings, there is considered to be a neutral impact to the setting of these buildings. The development therefore represents less than substantial harm to the nearby listed buildings, while there are public benefits of five dwellings at a time where the Council is unable to demonstrate a five year housing supply.

4. Design, Layout and Appearance

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The application is in outline form and as such detailed elevational drawings have not been provided. It would be expected that within a future detailed application there is a degree of variety in the design of the dwellings, while features such as chimneys, canopy's, window details and a differing use of materials should be included to soften the overall bulk of the development. An indicative layout to show how the development could look has however been submitted, which shows the dwellings in a mini cul-de-sac design not too dissimilar to the development to the north-east along Woodgett Close. This is considered to be acceptable in this location.

The proposed access, which is a consideration of this application, is located to the northern corner of the site, off Thorpe Road. While it will be publically visible from the street scene, there are numerous similar examples nearby, and it will therefore not result in any visual detriment.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling with one bedroom should be a minimum of 50 square metres, for a dwelling with two bedrooms a minimum of 75 square metres, and for a dwelling with three bedrooms or more should be a minimum of 100 square metres. The submitted plans do not indicate the number of bedrooms, however there is considered to be sufficient private amenity area for all of the proposed dwellings as well as for 185 Thorpe Road.

5. Impact to Neighbouring Amenities

Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

While the layout plan provided is indicative only, there is an approximate separation distance of 50 metres to the nearest neighbouring properties to the north, and there will be an approximate distance of 75 metres to the nearest properties on the adjacent site recently granted planning permission. Given this, it is considered that a future detailed scheme could ensure there would not be harmful impacts to either existing neighbouring properties or occupiers of the future dwellings.

6. Highways Impacts

Essex Highways Authority have stated they have no objections to the scheme subject to conditions relating to a visibility splay, a vehicular turning area, the use of no unbound materials, the width of

the private drive, the widening of the existing footway and the submission of a construction method statement.

The Adopted Parking Standards further require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces are required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. The submitted plans include only an indicative layout, but there is sufficient space to ensure the necessary off street parking requirements are met for all new dwellings

7. Tree and Landscape Impacts

The application site is currently being used as part of the residential curtilage of the host property. The garden is well stocked with trees, shrubs and other plants of a mixed age range. Some of the trees on the site and on adjacent land are afforded formal legal protection by means of Tendring District Council Tree Preservation Order 98/00019/TPO.

In order to establish the extent of the constraint that the protected tree, and other trees are on the development potential of the land, to show their Root Protection Areas (RPA's) and to ensure that they are not harmed by the implementation of any development which may be granted permission the applicant has provided a Tree Survey and Report that is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. The information contained in the report makes provision for the retention and physical protection of all of the trees that are covered by the TPO.

It is clear that several other trees would need to be removed in order to facilitate the development proposal. Therefore an assessment of their amenity value has been made to establish whether or not any of them meet the criteria under which they would merit protection by means of a new TPO. The size and positions of the trees along with the extremely limited extent to which they can be seen from a public place means that their contribution to the public realm is negligible. This means that their amenity value is commensurately low. Therefore it is not considered necessary or expedient to make a new TPO in respect of any of the trees identified for removal.

As the site is set back from the highway any new soft landscaping will make only a moderate, at best, contribution to the public realm. Nevertheless new planting should be secured for its own sake and to enhance the appearance of the development for future residents of the development, and should be considered within any future detailed application.

8. Public Right of Way

Policy TR4 of the Adopted Local Plan states that where development affects an existing public right of way, planning permission will be refused unless the development can accommodate the definitive alignment of the path. A formal diversion providing a safe, attractive and convenient alternative may be considered where appropriate. Where opportunities exist the improvement of existing routes and the creation of additional links in the network of public rights of way and cycle tracks will be sought.

It is noted there is a Public Right of Way (PROW) to the west of the site, running north to south. However, given there is an approximate separation distance of 60 metres, that there are no views of the site from the PROW, and that the PROW will not be altered, there is no identifiable harm that would warrant a reason for refusal.

9. Legal Obligations

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

There is currently a deficit of 14.12 hectares of equipped play/formal open space in Frinton, Walton and Kirby. However there is more than adequate formal open space across the area

Although there is a lack of play facilities it is not thought there will be a significant impact on the current facilities. As such no contribution is being requested on this occasion.

10. Habitats Regulation Assessment

Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on the Hamford Water Ramsar and SPA. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of the Hamford Water Ramsar and SPA in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Other Considerations

Frinton and Walton Town Council have recommended refusal on the grounds that they are against such backland developments on shared drives to a busy road, and there is a lack of detail as it an outline application.

In answer to this, the application has been assessed against the relevant backland development policies and is considered to meet all of the criteria.

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

1. Loss of trees;
2. Harm to local wildlife;
3. Impacts to local infrastructure; and
4. Impact to neighbouring amenities.

In answer to this, points 1 and 4 have been addressed within the main body of the report above. In response to point 2, the site is largely laid to grass and it would therefore not be reasonable to request a Phase 1 Habitat Survey is supplied. In response to point 3, it is not considered a development of five dwellings will have significant impacts to local infrastructure.

Conclusion

While the site falls outside of a recognised settlement development boundary within both the Adopted and Emerging Local Plans, the Council is currently unable to demonstrate a five year housing supply. It has been demonstrated that the development meets the economic, social and environmental strands of sustainability. The indicative layout demonstrates five dwellings can comfortably be accommodated without harm to existing or future neighbouring amenities. Essex Highways Authority do not object, while there is not considered to be significant harm to trees on site. Given this, and that a legal agreement has been completed for a financial contribution towards RAMS, the application is recommended for approval.

6. Recommendation

Approval.

7. Conditions

- 1 The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 3 No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the appearance, landscaping, layout and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans, drawing number 4531-0101 Revision P03, the untitled Site Location Plan, and the document titled Supporting Statement.

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

- 5 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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.

- 6 Prior to occupation of the development, the road junction / 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 road junction / 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.

- 7 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.

- 8 No unbound material shall be used in the surface treatment of the vehicular access or private drive.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

- 9 Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Highway Boundary and provided with an appropriate dropped kerb crossing of the verge in line with the proposed access road.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

- 10 The existing vehicle access as shown on the site layout plan (DWG. 4531 - 0101 P03) shall be suitably and permanently closed incorporating the reinstatement to full height of the footway / verge / kerbing immediately the proposed new access is brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

- 11 Prior to occupation of the development the existing footway across the entire frontage of the site shall be widened to 1.8 metres.

Reason: To make adequate provision within the highway for the continued safe passage of pedestrians.

8. Informatives

Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways Informatives:

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.

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.

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.