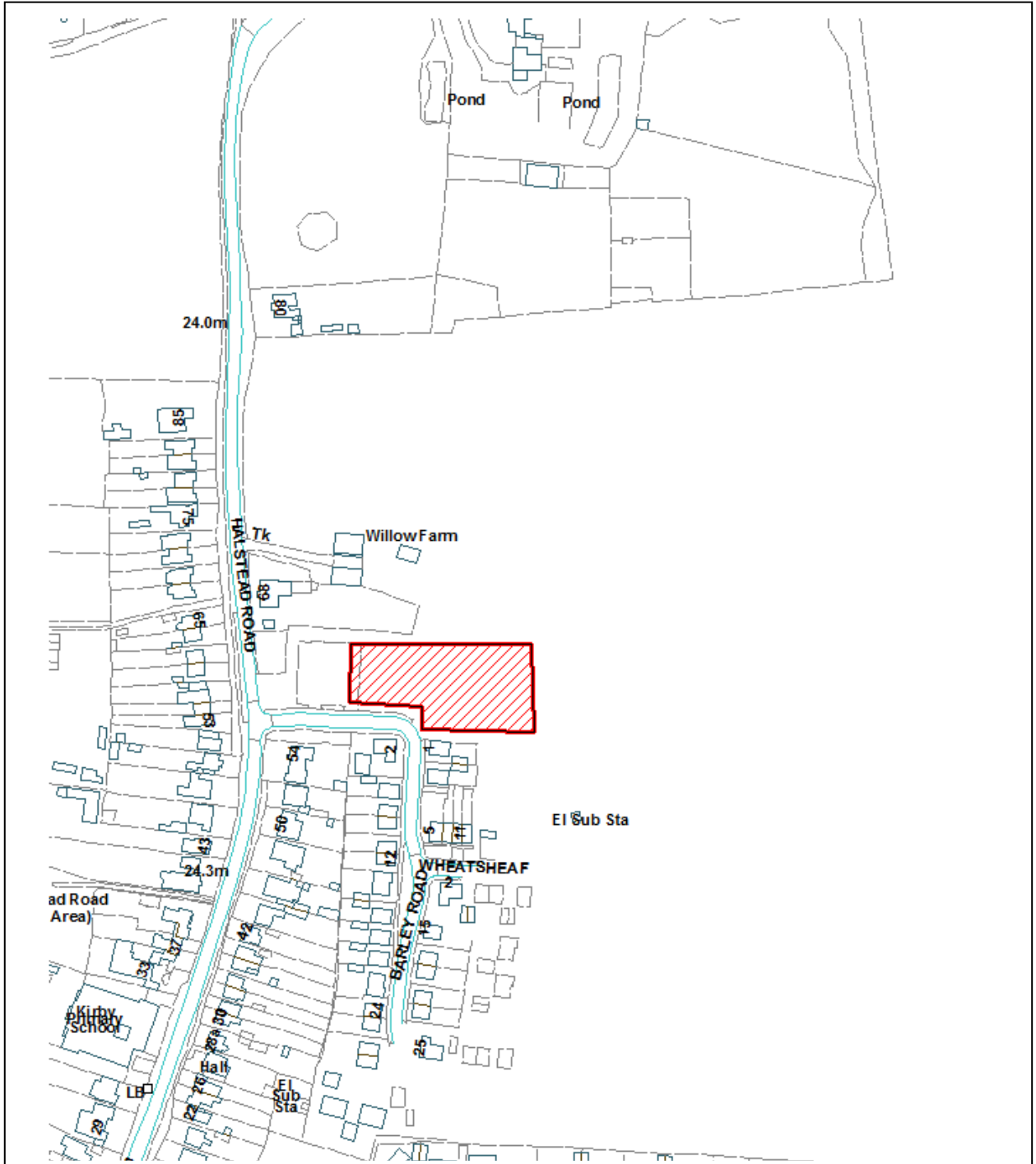


PLANNING COMMITTEE

14 January 2020

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION – 19/00283/FUL – LAND EAST OF HALSTEAD ROAD KIRBY CROSS FRINTON ON SEA CO13 0LR



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Application:	19/00283/FUL	Town / Parish: Frinton & Walton Town Council
Applicant:	Miss Hannah Short - Linden Ltd	
Address:	Land East of Halstead Road Kirby Cross CO13 0LR	
Development:	Development of 13 dwellings with Associated Landscaping and Infrastructure.	

1. Executive Summary

- 1.1 This application has been referred to Planning Committee at the request of Councillor Clifton due to concerns relating to; affordable housing provision, the design and street scene impact, poor layout and density, highway safety and parking.
- 1.2 This application site forms part of larger part of land stretching from Halstead Road to Buxton Avenue on the northern side of Kirby Cross.
- 1.3 Outline consent for the erection of up to 240 dwellings with a community hub including either a 40 bed space care home (Class C2) or a healthcare facility (Class D1) together with access from Halstead Road, Woburn Avenue and Buckfast Avenue; a parking area for up to 30 vehicles; green infrastructure provision including children's play area, kick-about area, footpaths, structural landscaping and biodiversity enhancement; a sustainable drainage system including detention basin and swales and other related infrastructure and services provision was granted at appeal on 6th September 2016. Phase 1 and 2 of the development have already been approved and are currently under construction. Phase 3 situated towards the south-west of the site, to the east of Phase 1 of the development was recently granted permission.
- 1.4 The land subject of this application was shown as a community hub with either a 40 bedroom care home or a medical facility under the original Outline permission 15/01234/OUT. The applicant has provided evidence that there is no interest in the provision of a care home and it has similarly been confirmed by NHS England that they are not in a position to agree to the land option for a healthcare facility on the site and would prefer to receive the alternative financial contribution (£389.67 per dwelling) secured through the S106 Agreement attached to the site-wide outline planning permission to support improvements to existing local medical facilities.
- 1.5 This application has been amended and now seeks full planning permission for 13 dwellings with associated landscaping and infrastructure.
- 1.6 The proposal includes a mix of traditional two-storey, two and three bedroom houses, in compliance with the ridge height parameters as per the approved Outline Parameter Plan.
- 1.7 The scheme that forms this full application will provide 4 affordable homes (35%), comprising two two-bedroom and two three-bedroom houses.
- 1.8 Housing Mix:
 - 2 bed open market house x 5
 - 3 bed open market house x 4

- 2 bed affordable house x 2
- 3 bed affordable house x 2

- 1.9 In conclusion, the proposed development would not result in any harmful impact upon visual amenity or neighbouring amenities and provides additional housing and sufficient additional parking spaces to serve the proposed units.
- 1.10 A legal agreement is currently being prepared to secure the contributions towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS); open space enhancements; and the delivery of the affordable housing units.

Recommendation:

That the Head of Planning be authorised to grant planning permission for the development subject to:-

a) 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 matters (where relevant):

- **Financial Contribution towards RAMS**
- **Financial contribution towards Open Space**
- **Affordable housing contribution 4 dwellings**

b) Subject to the conditions stated in section 8.2.

c) That the Head of Planning be authorised to refuse planning permission in the event that such legal argument 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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 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 and Compatibility of Uses

HG1 Housing Provision

HG3 Residential Development within Defined Settlements

HG3A Mixed Communities

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

COM6 Provision of Recreational Open Space for New Residential Development

COM19 Contaminated Land

COM26 Contributions to Education Provision

EN1 Landscape Character

EN2 Local Green Gaps

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN13 Sustainable Drainage Systems

EN29 Archaeology

TR1A Development Affecting Highways

TR2 Travel Plans

TR3A Provision for Walking

TR4 Safeguarding and Improving Public Rights of Way

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)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP3 Green Infrastructure

- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP5 Affordable and Council Housing
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL6 Strategic Green Gaps
- PPL7 Archaeology
- CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

- 2.1 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.2 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.
- 2.3 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.

2.4 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.

3. **Relevant Planning History**

15/01234/OUT	Erection of up to 240 dwellings with a community hub including either a 40-bed space care home (Class C2) or a healthcare facility (Class D1) together with access from Halstead Road, Woburn Avenue and Buckfast Avenue; a parking area for up to 30 vehicles; green infrastructure provision including children's play area, kick-about area, footpaths, structural landscaping and biodiversity enhancements; a sustainable drainage system including detention basin and swales and other related infrastructure and services provision.	Refused Appeal Allowed	07.12.2015 06.09.2016
17/01895/DETAIL	Phase 1 reserved matters application (49 units) for details of	Approved	07.03.2018

	the appearance, landscaping, layout and scale.		
17/02145/DETAIL	Phase 2 reserved matters application for 28 bungalows on land off Woburn Avenue and Buckfast Avenue.	Approved	19.03.2018
18/00355/DISCON	Discharge of conditions 11 (Phasing Plan and Programme), 12 (Green Infrastructure Management Plan), 13 (Foul Water Strategy), 14 (Surface Water Drainage Strategy), 15 (Written Scheme of Archaeological Investigation), 16 (Construction Method Statement), 20 (Design Code) and 21 (Landscaping Details) of approved planning appeal APP/P1560/W/15/3140113 (planning application 15/01234/OUT).	Approved	19.06.2019
18/00366/DISCON	Discharge of conditions 4 (Ground/Floor Levels, External Lighting, Means of Enclosure, Bicycle Parking and Refuse/Recycling Storage) of approved application 15/01234/OUT (allowed on appeal APP/P1560/W/15/3140113), in relation to Phase 1 only.	Approved	19.06.2019
18/00414/DISCON	Discharge of conditions 4 (Levels, Street Lighting and Refuse details), 10 (Arboricultural Method Statement), 13 (Foul Water Strategy) and 14 (Surface Water Drainage) of approved planning appeal APP/P1560/W/15/3140113 to planning application 15/01234/OUT, in relation to Phase 2 only.	Current	
18/00503/DISCON	Discharge of conditions 6 (roads & footways) and 11 (planning out crime) of 17/01895/DETAIL, in relation to Phase 1 only.	Approved	18.03.2019

4. Consultations

NHS East Essex CCG	The CCG are not in a position to agree to the land option for a healthcare facility. Whilst they recognise that there is a need for additional clinical capacity in the area, there are a number of factors that need to be considered including
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affordability of revenue for a new build, capital fund contributions to build, workforce to run the facility and how a facility would fit in with the current policy and Primary Care Network Structure.

On this occasion, they believe the best route would be not to agree to an offer of land, but to commit to the S106 mitigation in line with the S106 signed agreement which is secured and it is noted that part payment of the Agreement is available to spend now.

Anglian Water Services
Ltd

The submitted surface water drainage information (Flood Risk Assessment/Drainage Strategy) and proposed method of surface water discharge does not relate to an Anglian Water owned asset. As such, it is outside of our jurisdiction and we are unable to provide comments on the suitability of the surface water discharge. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse.

Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented. A connection to the public surface water sewer may only be permitted once the requirements of the surface water hierarchy as detailed in Building Regulations Part H have been satisfied. This will include evidence of the percolation test logs and investigations in to discharging the flows to a watercourse proven to be unfeasible.

Essex County Council
Archaeology

The Archaeology team provide the following comments:

“The application relates to a proposed development which is situated on land that has been evaluated through archaeological trial trenching. No further fieldwork was required within the area of Phase 3 and there is no recommendation for any archaeological investigation for the above application.”

Essex Wildlife Trust

No Comments.

Natural England

It has been identified that this development falls within the ‘Zone of Influence’ (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of

these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects.

The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring District Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

ECC SUDS

No objection to the Amended Drainage Strategy Report, however advise that the site should be subject to the drainage conditions imposed in the wider drainage strategy.

ECC Highways Dept

Essex County Council Highways have been consulted on the application and following receipt of amended plans raise no objection to the proposals subject to the imposition of the following conditions to cover the following:

- timings of internal road and footways;
- details of the estate roads and footways;
- provision and retention of car parking and turning areas;
- size of parking spaces and garages and provision of cycle
- parking in accordance with the Essex Parking Standards.

5. Representations

5.1 63 letters of objection and a petition containing 213 signatures have been received which raise the following concerns;

- Exacerbate existing parking problems.
- Noise and fumes from increased traffic.
- Noise, disturbance, obstruction and fumes from construction traffic.
- Access for emergency and refuse vehicles will be worsened.
- No disabled parking bays.
- Detrimental to residential amenities.
- Overdevelopment of the site.
- Drains/Sewage would not cope with the demands of further flats.

- Existing garages too small.
- Leaseholders not notified of proposed development.
- Overlooking and harm to privacy.
- Too high and out of character.
- Loss of light.
- Access to new spaces blocked by existing garages and parked vehicles.
- Loss of property values.
- Existing amenities will not cope with the increase of housing in this area.
- Area cannot cope with the additional traffic
- Noise Pollution during construction
- Were assured by Linden Homes that there would be no homes built in this area and it would be reserved for open space.
- Lack of detail in regard to infrastructure and detrimental to the rural aspect of the locality.

5.2 The Parish Council have made the following comments on the application

- Assurances that these properties are affordable or part buy have not been met.

6. Assessment

6.1 The main considerations in this instance are;

- Site Context;
- Proposal;
- Principle of Residential Development;
- Affordable Housing;
- Design and Appearance;
- Landscaping;
- Layout;
- Scale;
- Highway Safety and Parking Provision;
- Impact on Residential Amenity;
- Financial Contribution – Recreational Impact; and,
- Financial Contribution – Open Space / Play Space;
- Other Issues.

Site Context

6.2 The application site forms part of larger part of land stretching from Halstead Road to Buxton Avenue on the northern side of Kirby Cross.

6.3 Outline consent for the erection of up to 240 dwellings with a community hub including either a 40 bed space care home (Class C2) or a healthcare facility (Class D1) together with access from Halstead Road, Woburn Avenue and Buckfast Avenue; a parking area for up to 30 vehicles; green infrastructure provision including children's play area, kick-about area, footpaths, structural landscaping and biodiversity enhancement; a sustainable drainage system including detention basin and seales and other related infrastructure and services provision was granted at appeal on 6th September 2016. Phase 1 and 2 of the development have already been approved and are currently under construction. Phase 3 situated towards the south-west of the site, to the east of Phase 1 of the development was recently granted permission.

- 6.4 The site consists of a parcel of land measuring just under 0.36 hectares (ha) of generally level arable land north of the built-up area of Kirby Cross, a settlement west of the coastal towns of Frinton-on-Sea and Walton-on-the-Naze.
- 6.5 This land was shown as a community hub with either a 40 bedroom care home or a medical facility under the original Outline permission 15/01234/OUT. The applicants state there has been no interest in either use so are now proposing housing.
- 6.6 A S106 legal agreement was secured at outline planning permission stage requiring:
- 6.7 The provision of affordable housing, contributions towards education and healthcare, the provision and maintenance of public open space; and a residential travel information pack including bus vouchers.

Proposal

- 6.8 Linden Limited have stated in their submitted Planning Statement which accompanies this planning application that they have tested the care home/healthcare facility market and found no demand for such use for the site, as such they see an opportunity to provide additional housing on the site as an alternative.
- 6.9 This application therefore seeks full planning permission for 13 dwellings (Amended down from 15 during the life of the application) on the site (at land North of Barley Road, Kirby Cross) and includes a mix of traditional two storey, two and three bedroom houses, in compliance with the ridge height parameters as per the approved Outline parameter plan.
- 6.10 The following documents and amended plans have been submitted in support of the application;

27 Jun 2019	Drawing	P121 b Amended illustrative street scenes
27 Jun 2019	Drawing	P114 b Amended hardwick-mountford semi-detached proposed elevations
27 Jun 2019	Drawing	P113 b Amended hardwick-mountford semi-detached - proposed floor plans
27 Jun 2019	Drawing	P109 b Amended hardwick semi-detached - proposed elevations
27 Jun 2019	Drawing	P106 b Amended refuse strategy layout
27 Jun 2019	Drawing	P102 b Amended proposed block plan
27 Jun 2019	Drawing	P101 g Amended proposed site layout plan
27 Jun 2019	Drawing	18284/c101a Amended coloured site layout plan
27 Jun 2019	Other	Amended schedule of accommodation
27 Jun 2019	Other	Amended drawing issue sheet

27 Jun 2019	Report	Amended soft landscape management and maintenance plan
27 Jun 2019	Drawing	Lhe132/sk2a Amended fire and refuse tracking
27 Jun 2019	Drawing	P107 b Amended garden size layout
27 Jun 2019	Drawing	P104 b Amended boundary materials layout
27 Jun 2019	Drawing	18284/c102a Amended coloured street scenes
27 Jun 2019	Other	Amended landscape drawing issue sheet
20 Sep 2019	Report	Amended planning statement
27 Jun 2019	Drawing	P103 b Amended building materials layout
27 Jun 2019	Report	Amended design and access statement
27 Jun 2019	Drawing	P105 b Amended surface materials layout
27 Jun 2019	Drawing	Lin22259-11a Amended landscape proposals
20 Sep 2019	Report	Amended Drainage Strategy Report
16 Apr 2019	Report	Amended Habitat Regulation Assessment

Principle of Development

- 6.11 The principle of residential development on this site has been established by the granting of the outline application at appeal. To reflect this decision the site is now included within the emerging Settlement Development Boundary contained in the Tendring District Local Plan (2013-2033) and Beyond Publication Draft.
- 6.12 With regards to the provision of the aforementioned care home and community hub, under the original Outline permission (15/01234/OUT) the Council cannot insist on their provision as they were not primary considerations in the proposal being acceptable. It should also be borne in mind that the provisions of the S106 Legal Agreement are worded such that if the medical facility is not built then the developer is required to pay a healthcare contribution of £389.67 per dwelling, payable to NHS England.
- 6.13 The Clinical Commissioning Group (CCG) has been consulted on the proposal and has advised that whilst they recognise that there is a need for additional clinical capacity in the area, there are a number of factors that need to be considered including affordability of revenue for a new build, capital fund contributions to build, workforce to run the facility and how a facility would fit in with the current policy and Primary Care Network Structure. On this occasion, the CCG believe that the best route forward would not be to agree to an offer of land, rather they would prefer to receive the financial contribution secured through the S106 Agreement attached to the site-wide outline planning permission to support improvements to existing local medical facilities.
- 6.14 In terms of the alternative/additional use of this site for a care home, the applicant has provided evidence of attempts to market the site for C2 care home uses but this has not generated positive interest.

- 6.15 In view of the above, and given that the need to provide housing - both market and affordable housing – in the district continues to be important, officers raise no objection to the proposals on Policy grounds.

Affordable Housing & wider housing mix

- 6.16 The wider development will provide 18 homes classified as affordable housing as per the S106 Agreement. There will be eight one-bedroom flats, six two-bedroom houses and four three-bedroom houses. These will be gifted to Tendring District Council and allocated to people on the housing waiting list. 9 of these affordable dwellings were proposed for the third phase of development with the balance to be provided for within Phase 4.
- 6.17 This scheme site outside the parameters of the above agreement as it did not form part of the site given over for the approved 240 dwellings; as such as this forms a standalone full application it is reasonable to seek a policy compliant affordable housing component to the proposal and the applicant has agreed to the provision of 4 affordable homes (35%), comprising 2 two-bedroom and 2 three-bedroom houses to be secured as part of the S106 Agreement.
- 6.18 The overall Housing Mix will be as follows:
- 2 bed open market house x 5
 - 3 bed open market house x 4
 - 2 bed affordable house x 2
 - 3 bed affordable house x 2

Design and Appearance

- 6.19 The detailed design of the dwellings is varied with different roof forms, and use of porches and window detailing which adds a somewhat traditional element to the design and provides visual interest.
- 6.20 The surrounding area comprises of a mixture of type and styles of dwellings, using a range of materials all fairly traditional in appearance, it is therefore considered that the design of the proposed dwellings are in keeping with the character of the area. The design and appearance is in keeping with previous approved Phases that have been granted reserved matters consent.

Landscaping

- 6.21 The land subject to this application does not contain any significant trees other than those on the southern boundary. The trees, hedgerows and hedges are associated with the adjacent residential area and do not merit formal legal protection. As part of the application detailed landscaping plans have been submitted; the soft landscaping proposals are comprehensive and sufficiently detailed to enhance the appearance of the development.
- 6.22 While the location of boundary treatments has been provided no details of the type, height and design have been. However, this is a matter that can reasonably be controlled by way of a planning condition.

Layout

- 6.23 Each of the proposed dwellings, have their own private amenity space. Policy HG9 of the Saved Local Plan requires 50sqm for 1 bedroom dwellings; 75sqm for 2 bedroom dwellings and 100sqm for dwellings with 3 or more bedrooms. For flats, the policy sets out a requirement for either: a minimum of 25sqm per flat provided communally; or a minimum of 50sqm private garden area for a ground floor flat or maisonette and a minimum balcony area of 5sqm for units above. All the dwellings are provided with garden areas which meet or exceed these standards.
- 6.24 All of the proposed dwellings address the street and create an active street frontage.
- 6.25 Parking is provided either to the front or sides of the dwellings, in appropriate locations throughout the site and therefore do not dominate the proposed development.
- 6.26 In conclusion there is no objection to the layout of the proposed development.

Scale

- 6.27 Conditions imposed on the outline consent restrict development to predominately two storeys in height up to 10m with the northern part of the site being restricted to bungalows up to 7 metres in height. The proposed development complies with this condition and therefore the scale of the dwellings is considered acceptable.

Highway Safety/Parking

- 6.28 The proposed access was agreed at outline stage and therefore is not under consideration as part of this application. However, the internal layout is a matter for consideration as part of this application.
- 6.29 Essex County Council Highways have been consulted on the application and following receipt of amended plans raise no objection to the proposals subject to the imposition of the following conditions to cover the following:
- timings of internal road and footways;
 - details of the estate roads and footways;
 - provision and retention of car parking and turning areas;
 - sizes of parking spaces and garages and provision of cycle parking in accordance with the Essex Parking Standards.
- 6.30 Essex County Council Parking Standards state that for one bedroom dwellings 1 off-street parking space is provided and for dwellings with 2 or more bedrooms a minimum of 2 off-street parking spaces are provided. Furthermore, 0.25 space per dwelling should be provided for visitor parking. Each parking space should measure 5.5 metres by 2.9 metres and if a garage is to be relied on it should measure 7 metres by 3 metres internally. The plans show that the proposal provides parking in accordance with the adopted standards.
- 6.31 Provision for cycle storage has not been shown on the plans. However, the garages are of a sufficient size to provide cycle parking and all dwellings have space within the garden area for a shed. Therefore it is considered that adequate cycle parking can be provided and a condition is not considered necessary.

- 6.32 The proposal is therefore acceptable in terms of highway safety. As the plans show compliance with the Essex Parking Standards in relation to sizes of parking spaces and garages it is not necessary to impose conditions to cover this matter, as requested by the Highway Authority.

Impact on Residential Amenity

- 6.33 The Essex Design Guide states that 'with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable'.
- 6.34 The closest residential property (Willow Farm) is a considerable distance from the proposed development and is unlikely to suffer loss of light, privacy or residential amenity as a result of the proposals.
- 6.35 The proposed dwellings are situated between 5 and 20 metres from the eastern boundary of the site. The distance between the rear elevations of the proposed Plots meets the guidance as set out in the Essex Design Guide.
- 6.36 The relationship between the proposed dwellings is also considered acceptable with adequate separation to provide good standards of privacy and light.

Financial Contribution – RAMS

- 6.37 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.
- 6.38 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 a proportionate financial 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 European Designated Sites.
- 6.39 A unilateral undertaking (or in this case a S106 Agreement) can secure this legal obligation to ensure that the development would not adversely affect the integrity of European Designated Sites 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.

Open Space Contribution

- 6.40 Policy COM6 in the Tendring District Local Plan 2007(TDLP) seeks open space provision or a contribution towards it, from all residential development which generates additional demand for open space sport and recreation where there is a proven need.

- 6.41 Whilst demand resulting from 1 dwelling is not significant in itself, the cumulative effect of many single units (or small sites) soon become significant in itself, the cumulative effect of many single units (or small sites) soon become significant. Therefore a contribution towards provision is reasonable to ensure that open space, sport and recreation provision is equitable.
- 6.42 The Council's Open Space Officer has stated that there is currently a deficit of -14.12 hectares of equipped play in Frinton, Walton & Kirby. And confirmed that any additional development in Kirby will increase demand on already stretched play areas.
- 6.43 The nearest play area to the proposed development is approximately 0.2 miles from the proposed development. The site is well used by the local community and would struggle to cope with any additional usage.
- 6.44 It is recommended that due to the significant lack of play facilities in the area it is felt that a contribution towards play is justified and relevant to the planning application. Additional play equipment will be installed in Halstead Road play area.
- 6.45 A contribution is therefore sought of £11,830 for the 2 bed units and £13,518 for the 3 bed units.

7 Conclusion

- 7.1 In conclusion, the proposed development would not result in any harmful impact upon visual amenity or neighbouring amenities and provides a site layout and sufficient additional parking spaces to serve the proposed units.

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 dwelling
Financial contribution towards Open Space	£11,830 for the 2 bed units £13,518 for the 3 bed units
Affordable housing contribution	4 dwellings

As established through the granting of outline application 15/01234/OUT at appeal, the principle of residential development on this site is acceptable.

The details design, layout, landscaping and scale are considered acceptable. The proposal would result in no significant material harm to residential amenity or highway safety and the application is recommended for approval.

8.2 Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby permitted shall be carried out in accordance with the following approved Drawing Nos:

P121 b Amended illustrative street scenes,

P114 b Amended hardwick-mountford semi-detached proposed elevations,

P113 b Amended hardwick-mountford semi-detached - proposed floor plans,

P109 b Amended hardwick semi-detached - proposed elevations,

P106 b Amended refuse strategy layout,

P102 b Amended proposed block plan,

P101 g Amended proposed site layout plan,

18284/c101a Amended coloured site layout plan,

Amended schedule of accommodation,

Amended drawing issue sheet,

Amended soft landscape management and maintenance plan,

Lhe132/sk2a Amended fire and refuse tracking,

P107 b Amended garden size layout,

P104 b Amended boundary materials layout,

18284/c102a Amended coloured street scenes,

Amended landscape drawing issue sheet.

Amended Planning statement,

P103 b Amended building materials layout,

Amended design and access statement,

P105 b Amended surface materials layout,

Lin22259-11a Amended landscape proposals,

Amended Habitat Regulation Assessment,

Amended Drainage Strategy Report,

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

- 3) All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - In the interests of visual amenity and the character of the area.

- 4) Prior to the first occupation of any of the proposed development hereby permitted the internal road and footway layout as shown on the approved plans shall be provided.

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

- 5) Prior to the commencement of above ground 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. The 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.

- 6) The development shall not be occupied until such time as the car parking and turning areas as shown on the approved plans have 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.

- 7) No development shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form.

Reason - To protect the amenities and privacy of occupiers of the adjoining property.

- 8) No development shall commence until details of a surface water drainage works shall have been submitted to and approved in writing by the local planning authority. The details shall accord with the principles contained in the Updated Flood Risk and Drainage Strategy (October 2015) and the Amended Drainage Strategy Report (September 2019). The submitted details shall: a. measures to minimise the risk of flooding during the construction works; b. provide information about the design storm period and intensity, the method employed to delay and

control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; c. include a timetable for its implementation; and, d. provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. No building shall be occupied until the works have been implemented in accordance with the approved details.

- 9) No development shall take place before an Environmental Construction Management Plan for the construction of the development hereby approved has been submitted to, and approved in writing, by the Local Planning Authority. Works shall be carried out in accordance with the approved method statement. Details submitted in respect of the method statement, incorporated on a plan, shall provide for wheel cleaning facilities during the excavation, site preparation and construction stages of the development to prevent the deposition of mud or other debris onto the highway network/public areas. The method statement shall also include details of safe access to/from the site, the parking and turning of vehicles of site operatives and visitors, loading and unloading of plant and materials, delivery and construction working hours, dust suppression strategy, routing of delivery vehicles, measures to control noise and lighting, the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials, means of safeguarding the public right of way during construction, the erection and maintenance of security hoarding, a scheme for recycling/disposing of waste resulting from construction, and temporary traffic management/signage.

Reason - To ensure that development is carried out in a controlled manner in the interests of highway safety, while minimising impacts on the surrounding residential properties and the natural environment.

- 10) Prior to the commencement of any piling works which may be necessary, a full method statement - to include a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents – shall be submitted to and agreed in writing by the Local Planning Authority. Piling Works shall be carried out in accordance with the approved method statement.

Reason - To ensure that development is carried out in a controlled manner in the interests of highway safety, while minimising impacts on the surrounding residential properties and the natural environment

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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.

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.

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.

Building Regulations Informative

The designer should ensure that the means of escape meet BS5588-1:1990.

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**

Marketing/Correspondence Care Home/Medical Facility.