

Application: 19/01116/FUL

Town/Parish: Frinton & Walton Town Council

Applicant: Partner Construction Ltd and Clapper Capital Ltd

Address: Land site of former Martello Caravan Park Kirby Road Walton On The Naze
CO14 8QP

Development: Proposed 53no. dwellings and associated landscaping, roads, parking and drainage works

1. **Executive Summary**

- 1.1 The application has been referred to Planning Committee at the request of Councillor Delyth Miles due to concerns over the density of development; flood risk; serious issues emerging regarding sewerage waste; and affordable housing – there is a huge need in Walton – therefore, on-site provision is essential.
- 1.2 The development will be 100% affordable housing and seeks ‘full’ planning permission for the erection of 53 dwellings, comprising a mix of 2 and 3-bedroom semi-detached and terraced two-storey houses and apartments. Access would be provided via a new road linking into the existing carriageway to the west of the site. Areas of open space will be provided along the southern and eastern boundaries of the site which allow for the retention of existing trees along these boundaries. It is also proposed to create a SuDS feature within the eastern open space.
- 1.3 The site is essentially a vacant parcel of land within the former Martello Caravan site which has been redeveloped for a mixture of residential, care and retail uses (two food stores). The site benefitted from a previous approval for a Tesco supermarket which has subsequently lapsed. A residential development on this site is considered a compatible use in what is a sustainable location accessible by a range of means of transport – including public transport, walking, and cycling as well as by car.
- 1.4 The proposed development would have a gross density of just under 30 dwellings per hectare (29.8dph) which for a site which is considered highly sustainable is considered appropriate and helps make best use of the site.
- 1.5 The layout is considered acceptable with regard to privacy and avoidance of overshadowing; all plots will benefit from either on-plot or parking court/frontage parking which would be fully compliant with parking standards. The majority of plots will be fully compliant with private amenity and ‘back-to-back’ separation distances. Where there are small deviations from these standards this is principally for design reasons where plots turn corners or to support the retention of existing trees along the site boundaries.
- 1.6 The proposed height of dwellings throughout the site is two-storeys, which is considered acceptable in the context of the scale and form of existing and proposed development which immediately surrounds the site. Overall, the general appearance of the development is considered acceptable in terms of creating a sense of place and integrating it with existing and proposed surrounding development.
- 1.7 ECC Highways have no objections to access and layout.
- 1.8 The proposed scheme provides for a strategic landscape approach which will facilitate the delivery of a well thought out and usable open spaces.

- 1.9 The site, in part, lies within Flood Zone 3, and accordingly the proposal has been subject to a 'Sequential Test' which has confirmed that there are no sequentially preferable sites in the urban area of Walton, Frinton and Kirby for the proposed development. Both the Environment Agency and ECC SuDS, have confirmed that they do not object to the proposals subject to conditions that ensure that the development does not increase flood risk to others. In terms of flood risk mitigation measures, the submitted FRA advises that with some site re-profiling the finished floor levels can be set above the 1:200 year plus Climate Change annual probability peak still water tidal level at Walton-on-the-Naze and, subject to implementation of an appropriately designed surface water drainage scheme, will enable any potential overland flows to be conveyed safely across the site without affecting property in accordance with the approach promoted by government policy.
- 1.10 The Martello Tower, a Scheduled Ancient Monument and Listed Building lies in close proximity to the site. Both Historic England and ECC Historic Environment Team, whilst noting the planning history of the site, maintain that a housing scheme would still have an impact on the setting of the Tower. Accordingly, in terms of its landscape setting it is considered that the proposals will cause a material degree of harm to its significance and it will be for the Council to weigh this against any public benefits of the proposed development. However, given that approval has been granted for land north of the site for bungalows and houses and closer to the designated heritage asset it is not considered justifiable to argue that the current application will impact further on the setting of the historic asset. Alongside this the public benefits of a 100% affordable housing scheme to meet a proven local need is a material consideration that weighs in the balance and is tilted towards approval of the development.
- 1.11 ECC and the Council's Open Spaces Team have advised that the proposal would generate a requirement for circa £600K of education and open space requirements. The applicant has subsequently argued that the development of the site for 100% affordable housing is unlikely to come forward and deliver this form of housing and that waiving of the recommended S106 financial contributions is justified and essential to deliver the scheme. To support this position, a Viability Study has been submitted and has been subject to consideration by the Council's own independent consultants, who have confirmed that the scheme will be unviable and cannot support the S106 financial requirements.
- 1.12 Following the above advice, further discussions have been held with the applicant and ECC with respect to the scheme's educational requirements. ECC have further considered the application on receipt of advice that the scheme is for 100% affordable housing, and in view of the fact that the request for primary and secondary school contributions and secondary school transport has been made, if the Council decide that the scheme would not be viable should such contributions be required, then this is accepted. However, ECC would welcome the inclusion of a Review Mechanism within a Section 106 Agreement so that the matter can be given further scrutiny should the financial position change.
- 1.13 The planning merits of this case hinge on the relative weight that should be given to the need to provide housing in the District – and in particular the proven 'desperate' local need for more affordable housing in Walton – as set against the lack of contributions to mitigate the impacts of the scheme in terms of addressing the additional demands on education and open space.
- 1.14 On balance, officers are content that, given the importance of maintaining housing land supply (and in particular helping meet local affordable housing requirements) and the special circumstances of this case where viability concerns have been proven and accepted by the Council's independent experts, the grant of planning permission with a S106 Agreement allowing for a 'Review Mechanism' and a financial contribution towards RAMS (circa £6.5K) is accepted in this case.
- 1.15 In conclusion, the principal of development on this site has been established through the previous consent for a supermarket. Whilst that consent has lapsed, it is considered that a

residential scheme on what is now essentially a land-locked site - surrounded by existing and new residential development and retail uses - is appropriate and makes best use of this vacant site. Subject to the inclusion of conditions contained within the recommendation and a S106 Agreement, there is not considered to be any adverse impacts in respect of visual amenity, residential amenities, drainage, heritage assets, habitats and any highway safety. Accordingly, the application is recommended for approval.

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**
 - **Affordable Housing Provision:**
 - **Viability Review Mechanism**
- 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 agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

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

QL12 Planning Obligations

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG4	Affordable Housing in New Developments
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
HG14	Side Isolation
COM1	Access for All
COM6	Provision of Recreational Open Space for New Residential Development
COM26	Contributions to Education Provision
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN13	Sustainable Drainage Systems
EN23	Development within the Proximity of a Listed Building
EN29	Archaeology
TR1	Transport Assessment
TR1A	Development Affecting Highways
TR3A	Provision for Walking
TR5	Provision for Cycling
TR6	Provision for Public Transport Use
TR7	Vehicle Parking at New Development
Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)	
SP1	Presumption in Favour of Sustainable Development
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design

HP1	Improving Health and Wellbeing
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable and Council Housing
PP12	Improving Education and Skills
PP14	Priority Areas for Regeneration
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL7	Archaeology
PPL9	Listed Buildings
CP1	Sustainable Transport and Accessibility
CP3	Improving the Telecommunications Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Economic Development Strategy 2013

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.3 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.

2.4 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.

2.5 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**

95/00730/FUL	Internal alterations plus external staircase to Martello Tower Monument No. 123	Approved	08.09.1995
11/00244/FUL	Erection of Class A1 retail supermarket and petrol filling station with associated access, car parking, servicing, landscaping and pedestrian footbridge.	Approved	19.10.2012
14/01085/FUL	The implementation of a new access road and associated highway infrastructure to support the redevelopment of the later development of the Martello site.	Approved	26.01.2015
14/01303/FUL	Three storey, 60 unit extra care unit, comprising of 46 single bed apartments & 14 two bed apartments.	Approved	30.03.2015
14/01320/OUT	Two storey medical centre and	Approved	04.12.2015

pharmacy.

14/01837/FUL	The re-profiling of ground levels in the south west section of Martello site to facilitate future development.	Withdrawn	05.06.2015
15/00630/FUL	Demolition of existing buildings and erection of 237 residential dwellings together with associated access, car parking, landscaping and related works.	Refused	13.11.2015
15/01714/FUL	Demolition of existing buildings, re-profiling of ground levels and erection of 216 residential dwellings together with associated access, car parking, landscaping and related works.	Approved	03.11.2016
15/01731/DISCON	Discharge of condition 7 (site levels) of planning permission 14/01303/FUL.	Approved	12.02.2016
16/00171/FUL	Construction of a temporary access.	Approved	01.04.2016
16/00369/FUL	A two storey enabled living facility providing 16 apartments for profoundly disabled adults with staff accommodation in the roof space.	Approved	12.09.2016
16/00568/DISCON	Discharge of condition 3 (materials), 4 (landscaping), 6 (boundary treatments), 10 (surface water management strategy), 11-13 (archaeology), 16 (construction method statement) and 20 (mitigation for protected species and birds) of planning permission 14/01303/FUL.	Approved	04.10.2016
16/00997/FUL	Implementation of a new sub station to cater for wider site redevelopment proposals.	Approved	31.08.2016
17/00210/DISCON	Discharge of condition 8 (detailed scheme) of approved planning application 14/01303/FUL.	Approved	21.04.2017
17/00319/DISCON	Discharge of conditions 3 (Hard and soft landscaping), 5 (refuse strategy), 6 (Surface water drainage), 7 (Foul water drainage), 8 (Phasing plan), 9 (Materials), 10 (Street lighting scheme), 11	Approved	11.07.2017

	(Boundary walls and fences), 12 (floor levels), Condition 13 (Revised drawings addressing highways issues), 14 (Residential Travel info pack), 15 (Construction method statement), 16 (Ecological Mitigation), 17 (Archaeological), 18 (Fibre Optic connection) and 19 (Local Recruitment Policy) of approved planning application 15/01714/FUL.		
17/00451/DISCON	Discharge of conditions 5 (Refuse Strategy) and 19 (Local Recruitment Policy) of approved planning application 15/01714/FUL.	Approved	
17/00571/FUL	A two storey enabled living facility providing 16 apartments for profoundly disabled adults.	Approved	11.08.2017
17/01090/FUL	Redevelopment of the site through the construction of an M&S Foodhall together with associated car parking and landscaping and ancillary cafe.	Approved	28.09.2017
17/01412/DISCON	Discharge of Condition 09 (Roofing Materials) of Planning Permission 15/01714/FUL.	Approved	05.09.2017
17/01803/FUL	To vary condition No. 5 on application 17/01090/FUL - remove the restriction on subdivision of the unit.	Approved	28.11.2017
17/01907/DISCON	Discharge of conditions 16 (Staff Travel Plan), 21 (Drainage Scheme), 22 (Offsite Flooding) and 23 (Maintenance Plan) of approved planning application 17/01090/FUL, and discharge of conditions 21 (Drainage Scheme), 22 (Offsite Flooding) and 23 (Maintenance Plan) of approved planning application 17/01803/FUL.	Approved	04.12.2017
17/02013/DISCON	Discharge of condition 11 (Boundary Treatment) of approved planning permission 15/01714/FUL.	Approved	12.12.2017
17/02124/DISCON	Discharge of conditions 4 (Surfacing Materials), 7 (Landscape Management Plan) & 17 (Construction Method Statement) of planning permission 17/01803/FUL.	Approved	19.02.2018

18/00099/FUL	Variation of condition No. 2 & No. 3 on application 17/01803/FUL -to allow the substitution of drawings to reflect the design amendments.	Approved	21.02.2018
18/00206/DISCON	Discharge of condition No. 8 (Archaeology) of application 17/01803/FUL.	Approved	19.02.2018
18/00331/FUL	Proposed Change of Use of First Floor of Offices to form a new residential dwelling.	Approved	27.04.2018
18/00336/DISCON	Discharge of condition 16 (Recruitment Strategy) of planning permission 18/00099/FUL.	Approved	21.05.2018
18/00434/DISCON	Discharge of conditions 6 (surface water drainage), 7 (foul water strategy), 8 (Phasing Plan and Programme), 9 (External facing and roofing materials specification), 10 (external lighting), 13 (Highways details), and 15 (Construction Method Statement) of 15/01714/FUL.	Approved	20.09.2018
18/00593/NMA	Non-material amendment to 15/01714/FUL - Minor adjustment to the position of dwellings 1-91, associated parking and roads.	Approved	07.06.2018
18/00960/ADV	No.3 signs on building, Trolley Bay Signs and Freestanding Totum sign.	Approved	03.08.2018
18/00961/NMA	Amendment to west building elevation.	Approved	31.07.2018
18/01041/DISCON	Discharge of Condition 17 (external lighting scheme, location and appearance of external plant and machinery, boundary treatments including facing details of retaining walls) of 18/00099/FUL.	Approved	04.09.2018
18/01297/NMA	Non material amendment to planning permission 15/01714/FUL - minor amendment to setting out of Plots 20 and 21 to allow construction mindful of existing fencing.	Approved	28.08.2018
18/01633/DISCON	Discharge of Condition 13 (Cycle Parking) to approved planning application 18/00099/FUL.	Approved	04.10.2018

18/01781/DISCON	Discharge of Condition 3 (Hard and Soft Landscaping) of application 15/01714/FUL with drawing 20875/CIV/1251 C3 substituting drawing 1251 T1 .	Current	
18/01921/FUL	Full planning permission for re-grading earth works to the permitted open space consented under application 15/01714/FUL.	Approved	18.09.2019
18/01943/FUL	Alterations and additions to create new Coast Guard Station with residential flat over.	Approved	08.02.2019
19/00301/DISCON	Discharge of conditions 9 (Materials) and 11 (Boundary Walls) of approved application 15/01714/FUL.	Current	
19/00981/FUL	Proposed re-grading earthworks and associated landscaping and fencing to the permitted open space consented under application 15/01714/FUL.	Current	
19/01116/FUL	Proposed 53no. dwellings and associated landscaping, roads, parking and drainage works.	Current	

4. Consultations

ECC SuDS Consultee	Having reviewed the Flood Risk Assessment and the associated documents, do not object to the application subject to the imposition of a number of planning conditions to address detailed surface water drainage; scheme to minimise the risk of offsite flooding; surface water maintenance plan; and yearly logs of surface water drainage maintenance. They also request a number of informatives.
Environment Agency	Having reviewed the applicant's Flood Risk Assessment (as amended September 2019), the EA have identified the potential for an increase in surface water discharge from the new development via the outfall in the Statutory Main River (Tributary of Walton Channel). This could increase flood risk in the surrounding area if surface water is not appropriately managed. Therefore, they fully support the imposition of a condition to address detailed surface water drainage as recommended by ECC SuDS Team.
Anglian Water	The foul drainage from the development is in the catchment of Walton-on-the-Naze Water Recycling Centre that will have capacity for the flows from this development.

ECC Infrastructure Planning

ECC 'initial' comments on this application were that the proposal would generate 4.41 Early Years and Childcare (EY & C) places; 14.7 primary school places; and 9.8 secondary school places. Whilst there are surplus EY&C places within either the Homelands or Walton Ward and as such no developer contribution is required in that regard, there would be a requirement to meet additional demands at both primary and secondary school levels. An additional 14.7 primary school places would generate a cost of £15,281 per place at an overall cost of £224,631. An additional 9.8 secondary school places would generate a cost of £23,214 per place at an overall cost of £227,497. In addition, having reviewed the proximity of the site to the nearest secondary school, the County would seek a school transport contribution of £49,343. In total, this would equate to an education contribution of circa £500K.

On receipt of advice that the scheme is for 100% affordable housing, ECC is in agreement that, in view of the fact that the request for primary and secondary school contributions and secondary school transport has been made, if the District Council decide that the scheme would not be viable should such contributions be required, then this is accepted.

However, ECC would welcome the inclusion of a Review Mechanism within a Section 106 Agreement so that the matter can be given further scrutiny should be position change.

ECC Highways

No objection to the application subject to the imposition of a number of planning conditions and informatives.

Historic England

This is a proposal for a residential housing development within the housing development within the landscape setting of Martello Tower K, an important C19 coastal defence work which is scheduled monument. It follows an earlier scheme (11/00244/FUL) for a supermarket and associated development on this site in 2012, to which Historic England objected on the grounds that the proposals would be harmful to the significance of the scheduled monument, and for which planning permission was subsequently granted.

The current application is for 53 dwellings with associated landscaping, roads, parking and drainage works. While the impact which a housing development on the site would have on the contribution which setting makes to then significance of the Martello tower would be less than that of the consented supermarket in terms of scale, height and massing, the proposals would erode its landscape setting and cause a material degree of harm to its significance which your Council should weigh against any public benefits in the proposed development.

ECC Historic Environment Team

Impacting the legibility of the strategic orientation of the Martello Tower (a Grade II Listed Building) towards the seafront, the development will result in harm to the significance of the tower as derived from its setting and the appreciation of its planned relationship with the maritime landscape. The scheme proposes injury to the understanding of the building's original function as a defensive structure, divorcing its association with the sea with the encroachment of modern development. Considering the structure has already experienced harm to the historically open nature of its setting from most aspects, the proposal is seen to infill the last remaining space which may give us an idea of its original appearance within the landscape, causing further and cumulative harm.

For the above, the scheme is considered to cause "less than substantial harm" to the significance of a designated asset as derived from its setting and paragraph 196 of the NPPF is relevant.

ECC Archaeology

A Heritage Statement has been submitted with the planning application which identifies the high potential of archaeological deposits being identified on this site. Previous archaeological investigations have found evidence of multi-period archaeological deposits which is identified on the Historic Environment Record and within the heritage statement submitted with the application.

Given the above, a Programme of Archaeological Evaluation and Excavation is recommended to be controlled by way of a number of conditions.

TDC Open Space & Play

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

Any additional development in Walton-on-the-Naze will increase demand on already stretched play areas.

Accordingly, it is recommended that due to the significant lack of play facilities in the area a contribution towards play is justified and relevant to the planning application. Additional facilities will be added to Bathhouse Meadow.

Based on the Council's Open Space SPD this contribution would equate to circa £106K.

TDC Housing

This scheme is intended to deliver 100% affordable housing with the tenure and mix to be agreed at a later date.

In terms of demand, there are currently 119 households on the housing register seeking a 2 bedroom home in the

town and 91 households seeking a 3 bedroom property. As such, there is a desperate need for affordable housing in the town and as such the application is supported.

5. Representations

5.1 Councillor D Miles requested that this application is referred to Planning Committee because of the following material planning considerations: density of development; flood risk; serious issues emerging regarding sewerage waste; and affordable housing – there is a huge need in Walton – therefore, on-site provision is essential.

5.2 Frinton and Walton Town Council has recommended refusal on the following grounds:

- Lack of local infrastructure
- Bland – under-designed and overdeveloped
- Concern has been raised by local residents in regard to flooding of sewerage in Mill Lane from development which has already taken place and with this in mind the Town Council are concerned that this will exacerbate the problem

5.3 Representations have been received from 4 households to the ‘original’ submission raising the following comments and objections:

- Flood risk – instances of local flooding along Mill Lane and this development could add to problems; future sea level rises could make parts of Walton uninhabitable, including this site;
- Raising of ground levels to take site outside of flood zone could impact on water levels of lower lying properties on Mill Lane;
- The site known as ‘Cartbridge Meadow’ is a green field site and part of the flood plain;
- The site is a safe haven for many birds, flora and fauna; albeit this has been reduced by the redevelopment of the wider caravan park;
- Air and Noise Disturbance during construction, particularly if need to pile drive;
- Potential overlooking to properties in Mill Lane;
- Concerned over location of proposed SUDS feature close to eastern boundary and risks to neighbouring properties;
- Not enough space in local GP and schools

Any addition comments received with respect to the latest amended plans will be provided by way of the Committee Update Sheet.

6. Assessment

Site Context

6.1 The site is within the grounds of the former Martello Caravan Park and lies within the setting of the Martello Tower, which is a grade II listed building and a Scheduled Ancient Monument.

6.2 The site is a vacant and unkempt area of scrubby grassland with some limited tree and hedge cover particularly to its outer boundaries. Immediately to the north of the site is a narrow section of land which obtained outline planning permission in late 2018 for a residential development comprising four terraced houses (three storey) and 6 detached bungalows (yet to commence). The aforementioned approval will share access with a recently constructed extra care/assisted living apartment complex (granted planning permission on 30 March 2015 under reference 14/01303/FUL) and its associated parking area (which adjoin an area of open space situated around the Martello Tower). Beyond this to the north are new dwellings forming part of

the 216 residential unit scheme (still under construction and called 'Hamford Park') on the former caravan park (granted planning permission on 3 November 2016 under reference 15/01714/FUL). Further again to the north lies The Twizzle and a marina.

- 6.3 Mill Lane is located to the east and serves residential properties that back onto the land the subject of this application. These sit lower than the site and comprise a bespoke mixture of detached bungalows, chalets and houses.
- 6.4 Proposed access to the site will be taken from the western boundary by way of an existing access road which forms an arm off of the main access road into 'Hamford Park'. The access road serves two new food stores which abut the site; one being an M & S Foodhall to the north and an Aldi supermarket to the south. Indeed the application site itself was subject of a now expired planning permission for a Tesco supermarket (planning reference 11/00244/FUL granted planning permission on 19 October 2012).
- 6.5 Immediately to the south of the site, lies an area of grassland and ditch, beyond which is a single carriageway road which provides a link between Mill Lane and Kirby Road, and to a Council owned car park. To the south of this lie existing residential properties on Marina Mews and Churchfield Road.
- 6.6 The site lies outside of, but directly adjacent to the settlement boundary of Walton in the adopted Local Plan. It also lies outside of but immediately adjacent to the urban regeneration area identified by Policy QL6. The site lies inside the revised settlement boundary of the emerging Local Plan, taking into account its proposed allocation as a mixed use redevelopment site in the Walton Regeneration Framework and the extant planning permission described above.

Proposal

- 6.7 This application seeks 'full' planning permission for the erection of 53 dwellings, comprising a mix of 2 and 3-bedroom semi-detached and terraced two-storey houses and apartments (of which there would be 8 spread over two floors in two blocks). Access would be provided via a new road linking into the existing carriageway to the west of the site which serves the two food stores. Within the site itself, there would be a central line of street fronting units with the other units being served from three cul-de-sacs; 2 to the north and 1 to the south of this principal street.
- 6.8 The development will be 100% affordable housing and in this regard the applicant has stated that:

"Our intention is to partner up with a Housing Association to deliver the entirety of the site for them, with any S106 Agreement restricting the standard percentage in Tendring as affordable housing with the remainder having the ability to be any housing tenure that meets local needs. To this end the standard percentage affordable housing S106 housing tenure split will be determined by the Local Authority with the rest of the site provided as additionality of affordable housing based on a tenure mix that works for our selected local Housing Association Partner. All units will need to be Homes England Grant Fund assisted to enable viability of deliverability of the scheme as 100% affordable housing."
- 6.9 Areas of open space will be provided along the southern and eastern boundaries of the site which will allow for the retention of existing trees along these boundaries. It is also proposed to create a SuDS feature within the eastern open space.

Principal of Development

- 6.10 The site lies outside of the Settlement Development Boundary (SDB) of the saved Local Plan (Tendring Local Plan 2007) but within the SDB of the draft Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The site also lies within a protected caravan park designation in the saved plan (ER18) which is not carried forward into the emerging plan due to the granting of residential/care home development on the remainder of the site (which is now well advanced in terms of build out).
- 6.11 In this instance the site falls within the former Martello Caravan site for redevelopment and is situated on land which has previously benefitted from a consent for the Tesco supermarket, which has subsequently lapsed. Immediately to the north of the site outline planning permission has been granted in late 2018 for 10 new dwellings (yet to be implemented) and beyond that land has been allocated within the emerging local plan for residential development. This is the subject of a planning permission (15/01714/FUL) for the demolition of existing buildings, re-profiling of ground levels of erection of 216 residential dwellings together with associated access, car parking, landscaping and related works which is now well advanced in terms of build-out. This development proposal seeks to provide additional residential development on what is essentially the remaining undeveloped area on the former Caravan Park amongst other compatible uses.
- 6.12 The basis for any decision on a planning application is required to consider the land use planning policy in the first instance and then alongside any other material considerations. The site is essentially part of a wider brownfield site and in a sustainable location (albeit out of town centre) and is accessible by a range of means of transport – including public transport, walking and cycling as well as by car. The Council's assessment of the application takes into account the NPPF presumption in favour of sustainable development and the status of the adopted Local Plan and the emerging Local Plan and also has regard to other material considerations. Undue weight has not been given to any one policy but regard has been had to all three arms of the sustainability criteria of the NPPF which cannot be judged in isolation and to the strong material considerations that exist in that site no longer operates as a caravan park (Policy ER18 therefore carries little, if any, weight).
- 6.13 Overall, taking into account all the above matters, it is considered that the principle of residential development is acceptable.

Layout

- 6.14 The proposed development would provide a gross density of just under 30 dwellings per hectare (29.8dph) which for a site which is considered highly sustainable is considered appropriate and helps make best use of the site.
- 6.15 The scheme is considered to provide a generous standard of road and footway width, ensuring that the internal road layout can safely and comfortably accommodate emergency services and waste collection services. All houses and apartments would benefit from either on-plot or parking court/frontage parking which would be fully in compliant with parking standards.
- 6.16 It is considered that residential amenity for future residents would be acceptable having regard to privacy and avoidance of overshadowing; albeit there would be a slight reduction to the recommended 'back-to-back' separation distance for plots 33 and 34 with plots 41 to 43 inclusive. However, this should be weighed against the ability to deliver a landscape buffer to the southern boundary and to support the retention of existing trees along this boundary. All other plots are fully compliant.
- 6.17 In terms of private amenity areas, all plots are fully compliant with minimum standards, apart from plots 2, 20, 21 and 38, which comprise either corner turning units or a mid-terrace unit. It

is considered, as prescribed in the Essex Design Guide that for place-making and design reasons that there will be instances where standards should be relaxed and this often tends to be plots which sit on corner plots. Accordingly, it is considered that the proposed layout is acceptable.

Scale and Appearance

- 6.18 The proposed height of dwellings throughout the site is two-storeys, which is considered acceptable in the context of the scale and form of existing and proposed development which immediately surround the site. Existing residential properties to the south and east of the site are situated a minimum of 60m from the nearest proposed dwelling or apartment so are not considered to be unduly impacted in terms of visual intrusion or any perceived overlooking. Whilst existing properties on Mill Lane are set at a lower level, the provision of an informal public open space along this boundary and the careful orientation of the proposed dwellings assists in limiting any undue impact. The relationship with the proposed permitted residential development immediately to the north of the site is considered acceptable with the 'back-to-back' separation distances being fully policy compliant.
- 6.19 In terms of appearance, the proposed dwellings and apartments are of a simplistic traditional vernacular design, albeit some interest and articulation is provided by the inclusion of front door roof canopies and the use of rendered rather than brick façade finishes for some corner turning units. Overall, the general appearance of the development is considered acceptable in terms of creating a sense of place and integrating it with existing and proposed surrounding development.

Access

- 6.20 ECC Highways have no objections to access and layout subject to the securing a number of planning conditions to cover such matters as:
- details of estate road and footways including surfacing and means of surface water drainage;
 - no surface water discharge onto the highway;
 - provision of residential travel information packs; and
 - Construction Method Statement
- 6.21 Pedestrian and vehicular access to the site will be taken from the existing spur road to the west of the site which feeds into a roundabout which serves the two existing food stores and the new 'Hamford Park' estate to the north and then links onto Kirby Road.

Landscaping

- 6.22 It is considered that the proposed scheme layout provides for a strategic landscape approach which will facilitate the delivery of a well thought out and usable open space along the eastern and southern boundaries of the site, whilst also facilitating the retention of existing trees to add to this setting. However, specific detailed planting proposals are still required and accordingly this needs to be subject to condition.

Drainage

- 6.23 Upon submission of a site specific Flood Risk Assessment the Environment Agency has confirmed that they have no objections to the development subject to the application of planning conditions suggested by ECC SuDS (more on this below) to ensure that the development does not increase flood risk to others (it is recognised that there is potential for an increase in surface water discharge from the new development via the outfall into the Statutory Main River (Tributary of Walton Channel). This could increase flood risk in the surrounding area if surface water is not appropriately managed).

- 6.24 As more than half of the site sits within Flood Zone 3 the Environment Agency requested that a 'Sequential Test' be applied to the proposal as set out in Paragraph 158 of the National Planning Policy Framework. The applicant duly submitted a 'Flood Risk Sequential Test' in December 2019 and this confirmed that there are no suitable and available sites for the immediate delivery of 53 affordable houses in or adjoining the urban area of Walton, Frinton and Kirby. This is due to the absence of sites of a suitable size (around 1.75ha) that are immediately available, not in Flood Zone 2 or 3, in another use, earmarked by other housing developers, allocated for other uses in the emerging Local Plan (especially environmentally sensitive ones such as green space and coastal protection), or lacking suitable access from the public highway network. Accordingly, it is accepted that there are no sequentially preferable sites for the proposed development in regard to flood risk and that the proposal passes the Sequential Test in this instance.
- 6.25 In terms of flood risk mitigation measures, the submitted FRA advises that with some site re-profiling the finished floor levels can be set at 5.30m AOD which will provide a 0.13m freeboard above the 1:200 year plus Climate Change (2119) annual probability peak still water tidal level at Walton-on-the-Naze and, subject to implementation of an appropriately designed surface water drainage scheme, will enable any potential overland flows to be conveyed safely across the site without affecting property in accordance with the approach promoted by government policy.
- 6.26 ECC, as Sustainable Drainage consultee, originally objected to the submitted drainage Flood Risk Assessment on grounds that it did not comply with the requirements set out in the ECC adopted Sustainable Drainage Systems Design Guide and associated standards and codes, and in particular did not confirm that discharge rates would be limited to the greenfield 1 in 1 year rates required from a new development and also the need to allow for an 'urban creep' 10% allowance. Following the submission of an amended FRA, ECC SuDS has removed their 'holding objection' subject to conditions securing details, provision and maintenance of the drainage strategy.

Heritage Impact

- 6.27 A key material consideration in the determination of this application is its effect on the setting and appearance of the Martello Tower located in close proximity to the site. The Martello Tower is a Scheduled Ancient Monument and Listed Building.
- 6.28 The Planning (Listed Buildings and Conservation Areas) Act 1990 S. 66 imposes a general duty as respect listed buildings (including Scheduled Ancient Monuments) in the exercise of planning functions.
- 6.29 In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of state shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.30 Saved policy EN23 in the saved Local Plan seeks to resist development proposals that would adversely affect the setting of listed buildings and policy resists development that will adversely affect nationally important archaeological sites and their setting. Scheduled Ancient Monuments are referred to in paragraph 6.142 of the supporting text for the latter policy. Policy PP9 in the emerging Local Plan similarly gives protection to the setting of listed buildings and scheduled ancient monuments as heritage assets.
- 6.31 The applicant has submitted a Heritage Statement to consider the significance of the Martello Tower and the potential impact of the development on its significance and its setting. Both Historic England and ECC Historic Environment Team, whilst noting the planning history of the site in terms of the previous approval for a supermarket, maintain that a housing scheme

would still have an impact on the setting of the Martello Tower (albeit to a lesser extent) in terms of its landscape setting and cause a material degree of harm to its significance and it would be for the Council to weigh this against any public benefits in the proposed development. It is considered that the scheme would cause “less than substantial harm” to the significance of a designated asset as derived from its setting and paragraph 196 of the NPPF is relevant.

- 6.32 With respect to the above, these comments appear to ignore the fact that there is an extant consent for land immediately to the north of the site which lies between the application site and the Martello Tower. Indeed, Historic England had accepted that the scheme for 10 houses and bungalows on that site was an improvement on an earlier approval for apartments for disabled adults on this same site. Given that approval has been granted for land north of the site and closer to the designated heritage asset it is not considered justifiable to argue that the current application will impact further on the setting of this historic asset. Alongside this the public benefits of providing a 100% affordable housing scheme to meet a proven local need is a material consideration that weighs in the balance and is tilted towards approval of the development.

Habitats

- 6.33 Legal advice has been sought which confirms that Tendring District Council should seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment (HRA) has been carried out to confirm that the mitigation will be the RAMS 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 (Hamford Water Special Protection Area (SPA), Special Area of Conservation (SAC) & Ramsar).

Section 106 of the Town and Country Planning Act 1990 and Viability Matters

- 6.34 As set out earlier in this report, ECC and the Council’s Open Space Team have advised that this proposal, to mitigate against its impacts, would generate a requirement for a circa £500K education contribution (towards primary and secondary school child places and a school travel contribution) and a circa £106K contribution towards an enhancement in play facilities at Bathhouse Meadow.
- 6.35 The applicant has subsequently argued that the development of the site for 100% affordable housing is unlikely to come forward and deliver this form of housing and that waiving of the recommended S106 financial contributions is justified and essential to deliver the scheme.
- 6.36 To support this position, the applicants submitted a Viability Study setting out the costs. The Study has been subject of detailed and lengthy consideration and testing by the council’s own independent consultants BNP Paribas, which has confirmed that the scheme will be unviable and cannot support the S106 financial requirements for education and open space contributions if delivered as a 100% affordable housing scheme (indeed, for reference, BNP Paribas tested the scheme on the basis of a policy compliant 70% market to 30% affordable housing offer, and that would only support a circa £300K contribution, around 50% of what has been requested).
- 6.37 Following the above advice, further discussions have been held with the applicant and ECC with respect to the scheme’s educational requirements. ECC have further considered the application on receipt of advice that the scheme is for 100% affordable housing, and in view of the fact that the request for primary and secondary school contributions and secondary school transport has been made, if the Council decide that the scheme would not be viable should such contributions be required, then this is accepted. However, ECC would welcome the

inclusion of a Review Mechanism within a Section 106 Agreement so that the matter can be given further scrutiny should the financial position change.

- 6.38 The planning merits of this case hinge on the relative weight that should be given to the need to provide housing in the District – and in particular the proven ‘desperate’ local need for more affordable housing in Walton – as set against the lack of contributions to mitigate the impacts of the scheme in terms of addressing the additional demands on education and open space.
- 6.39 On balance, officers are content that, given the importance of maintaining housing land supply (and in particular helping meet local affordable housing requirements) and the special circumstances of this case where viability concerns have been proven and accepted by the Council’s independent experts, the grant of planning permission with a S106 Agreement allowing for a ‘Review Mechanism’ and a financial contribution towards RAMS (circa £6.5K) is accepted in this case.

7. Conclusion

- 7.1 The principal of development on this site has been established through the previous consent for a supermarket. Whilst that consent has lapsed, it is considered that a residential scheme on what is now essentially a land-locked site - surrounded by existing and new residential development and retail uses - is appropriate and makes best use of this vacant site. Subject to the inclusion of conditions contained within the recommendation and a S106 Agreement, there is not considered to be any adverse impacts in respect of visual amenity, residential amenities, drainage, heritage assets, habitats and any highway safety. Accordingly, the application is recommended for approval.

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 section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Affordable Housing Provision	100%
Financial contribution towards RAMS.	£122.30 per dwelling
Viability Review Mechanism	

8.2 Conditions and Reasons

- 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 not be carried out except in complete accordance with the details shown on the following submitted plans:

- Amended Site Location Plan drawing no. 40974/025
- Amended Site Layout drawing no.40974/020G
- Amended Plots 25-28 drawing no. 40974/035
- Amended Plot type F113-F115-F113 drawing no. 40974/032
- Amended Plot type F114-F115-F114 drawing no. 40974/013b
- Amended Plot type F114-F114 drawing no. 40974/011a

- Amended Plot type F113-F112 drawing no. 40974/010b
- Amended Plot type F112-F112 drawing no. 40974/08b
- Amended Plots 29-32 floor plans and elevations drawing no. 40974/005b
- Amended presentation site layout drawing no. 40974/0024a
- Amended street scenes drawing no. 40974/023a
- Amended materials plan drawing no. 40974/022c
- Amended F113-F114 render drawing no. 40974/034
- Amended F114-F113 drawing no. 40974/033
- Amended F114-F114 render drawing no. 40974/014b
- Amended F113-F112 render drawing no. 40974/012b
- Amended boundary treatment plan drawing no. 40974/021c
- Amended F114-F114 hipped drawing no. 40974/031

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

- 3 Within 6 months of the commencement of the development hereby approved, a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels shall have been submitted to and approved in writing by the Local Planning Authority.

Reason - Insufficient information is submitted with the application for consideration of these details.

- 4 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 - To ensure the satisfactory implementation of the approved landscaping scheme.

- 5 No development, other than groundworks and construction of dwellings up to floor level, shall take place until full written details of the refuse facilities for the development have first been submitted to and approved in writing by the Local Planning Authority and such facilities shall be made available before first occupation of the residential area to which it relates.

Reason - Insufficient information is submitted with the application for consideration of these details.

- 6 No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25,3 of the CIRIA SuDS Manual C753;
 - Limited discharge rates to 5 l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change;

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event;
- Demonstrate that all storage features can half empty within 24 hours for the 1:100 plus 40% climate change critical storm event;
- Final modelling and calculations for all areas of the drainage system;
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753;
- Detailed engineering drawings of each component of the drainage scheme;
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features;
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site;
- To ensure the effective operation of SuDS features over the lifetime of the development;
- To provide mitigation of any environmental harm which may be caused to the local water environment;
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

- 7 No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and to prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason – The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

- 8 Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason – To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

- 9 The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason – To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

- 10 No development or preliminary ground-works can commence until a programme of archaeological evaluation has been secured and undertaken with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the Local Planning Authority.

Following the completion of the 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, shall be submitted to the local planning authority.

Reason – The proposed development is located within an area with potential for below ground archaeological deposits. The development would result in harm to non-designated assets with archaeological interest.

- 11 No development or preliminary groundwork shall 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.

Reason – The proposed development is located within an area with potential for below ground archaeological deposits. The development would result in harm to non-designated assets with archaeological interest.

- 12 Following completion of any 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 local 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 – The proposed development is located within an area with potential for below ground archaeological deposits. The development would result in harm to non-designated assets with archaeological interest.

- 13 No development shall commence until a Phasing Plan and Programme for the application site has been submitted to and approved in writing by the Local Planning Authority. The document shall identify the physical extent of each proposed phase of development with reference to the approved layout and an indicative timescale for implementation of each phase.

Reason - To ensure a satisfactory development programme in the interests of the occupiers of the development and in terms of local amenity and pedestrian safety.

- 14 No development, other than groundworks and construction of dwellings up to floor level, shall take place until precise details of the manufacturer and types and colours of the

external facing and roofing materials to be used in the construction of that phase have been submitted to and approved, in writing, by the Local Planning Authority. Such materials so approved shall be those used in that particular phase of development.

Reason - To ensure a satisfactory development in relation to external appearance.

- 15 No development, other than groundworks and construction of dwellings up to floor level, shall take place until full written details of a scheme for the external lighting of the development have been submitted to and approved in writing by the Local Planning Authority. The agreed lighting shall be installed within the development before the first unit is occupied, unless otherwise agreed in writing by the Local Planning Authority.

Reason - Insufficient information is submitted with the application for consideration of these details.

- 16 No development shall take place until precise details of the provision, siting, height, design and materials of all boundary walls and fences which face onto public spaces/highways or private drives have been submitted to and approved in writing by the Local Planning Authority. The boundary walls and fences so approved shall be erected prior to the building/s to which they relate being first occupied and shall thereafter be retained in their approved form.

Reason - To ensure a satisfactory development in terms of appearance and functionality, in the interests of amenity.

- 17 Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in principal and in accordance with drawing number: 40974/020F

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

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

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

- 19 The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

- 20 As per an in principal with the proposed block plan the main access road shall be provided, but not be limited to, the following aspects;

- Carriageways measuring no less than 5.5m in width
- 2x2m Footways on both sides of the access road
- Appropriate pedestrian crossing facilities where appropriate.
- All internal road junctions should be provided with 25m x 2.4m x 25m vehicular visibility splays.
- Kerb radii measuring 6m.

- Any other reasonable items to ensure the access is in accordance with current policy standards.

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

- 21 Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

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.

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

Reason - To ensure adequate space for parking off the highway is provided in the interest of highway safety.

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

Reason - To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

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

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport.

- 25 The finished lower ground floor of all dwellings shall be set no lower than 5.30m above Ordnance Datum (AOD).

Reason - In the interest of safety and resilience in the event of flooding.

- 26 Prior to occupation of the development, the Developer shall be responsible for the provision, to the first owner of each dwelling on the site, of a Residential Travel Information Pack for sustainable transport, approved by the Local Planning Authority, in consultation with Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason - To promote travel from the site by sustainable modes including public transport as an alternative to the private motor car.

- 27 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 include details of:
- i) the use of barriers to mitigate the impact of noisy operations;
 - ii) parking of vehicles of site operatives and visitors;

- ii) the loading and unloading of plant and materials;
- ii) the proposed use of machinery and plant;
- iv) method for piling works;
- v) method for storing and removing waste from the site;
- iii) storage of plant and materials used in constructing the development;
- iv) wheel and under-body washing facilities; and
- v) hours of construction and delivery

The development shall be carried out in accordance with the statement so approved.

Reason - To ensure that the development takes place in a satisfactory manner with regard to its impact on amenity and highways in the local area.

- 28 The hereby permitted development shall not be occupied until a fibre optic broadband connection installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing, has been installed at the site, in accordance with details that shall be submitted and approved, in writing, by the Local Planning Authority. If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.

Reason - To ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking.

- 29 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions to the dwellings or the roofs, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions or building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason – In the interests of residential and visual amenity.

8.3 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.

S106 Informative

The applicant is reminded that this permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 1990.

Conditions Informative

Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. A fee of £34 for householder applications and £116 for all other types of application will be required for each written request.

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 area(s) directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

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.

The Applicant should be advised to contact the Essex County Council travel plan team at travelplanteam@essex.gov.uk to confirm arrangements for the provision of the Residential Travel Information Packs.

Drainage Informatives

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk

Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

Changes to existing water courses may require separate consent under the Land Drainage Act before works take place.

It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

Notification of intention to connect to the public sewer under S106 of the Water Industry Act. Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 6066087.

Protection of existing assets – A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

Building near to a public sewer – No building will be permitted within the statutory easement width of 3 meters from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 6066087,

The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact Anglian Water Development Services Team on 0345 6066087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with 'Sewers for Adoption Guide for Developers', as supplemented by Anglian Water's requirements.

Other Informatives

Essex Police provide a free impartial service to any applicant who wishes to incorporate Crime Prevention through Environmental Design and apply for the police preferred 'Secured by Design' accreditation. The applicant is invited to contact Essex Police via designingoutcrime@essex.pnn.police.uk

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

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.