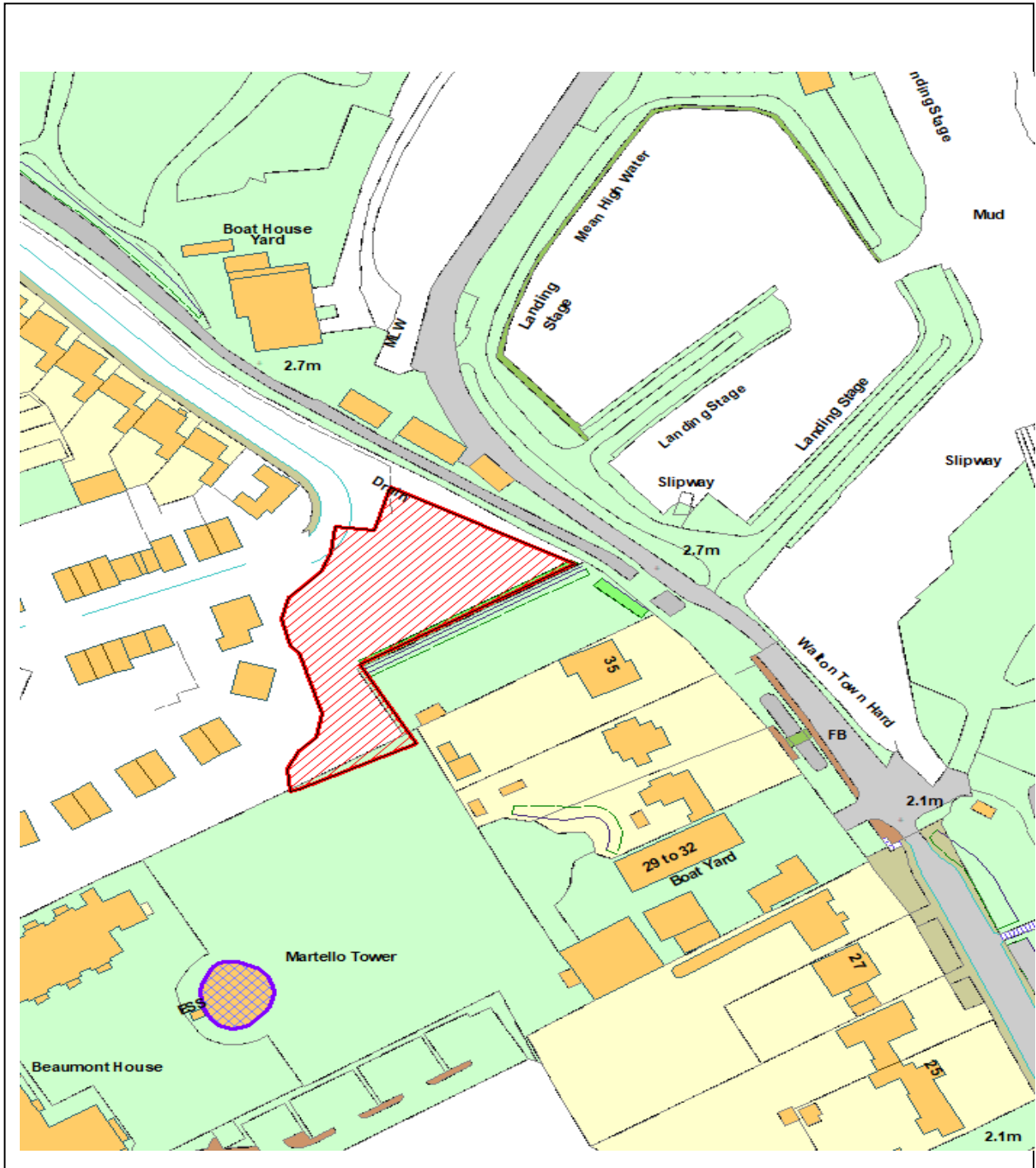


PLANNING COMMITTEE

12 FEBRUARY 2020

REPORT OF THE HEAD OF PLANNING

**A.3 PLANNING APPLICATION – 19/00981/FUL – FORMER MARTELLO CARAVAN PARK
KIRBY ROAD WALTON ON THE NAZE CO14 8QP**



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Application: 19/00981/FUL

Town/Parish: Frinton & Walton Town Council

Applicant: Taylor Wimpey UK Ltd.

Address: Former Martello Caravan Park Kirby Road Walton On The Naze CO14 8QP

Development: Proposed re-grading earthworks and associated landscaping and fencing to the permitted open space consented under application 15/01714/FUL.

1. Executive Summary

- 1.1 This application has been called in by Councillor Turner on the grounds that it will be detrimental to its neighbours and does not address drainage and possible landslip issues.
- 1.2 The development to be considered is land raising with a 1:3 slope down to the existing ground levels along the full southern boundary with a vacant plot known as Fenland 36 Mill Lane. The nearest dwelling is Landermere 35 Mill Lane which is located around 20 metres from the southern boundary. The north-eastern boundary is to a ditch with the road and Walton Marina beyond. The north and west boundaries are to the new housing development. To the south-western edge of the application site lies Martello Tower K which is a Scheduled Ancient Monument and Grade II Listed Building.
- 1.3 Given the existing levels surrounding this site and the screening provided by existing vegetation it is not considered the visual impact of the land raising will result in any material harm to visual amenity or the character of the surrounding area.
- 1.4 The site lies within tidal Flood Zone 3a having a high probability of flooding. A Flood Risk Assessment has been submitted and both the Environment Agency and ECC SuDs as Lead Local Flood Authority have confirmed no objection on flood risk or drainage grounds.
- 1.5 There will be overlooking from the application site to the vacant plot Fenland, exacerbated by the land raising. However, this land is a small area of open space with the much larger open space to the north of the housing development. There is also existing vegetation within the control of Fenland which offers screening, in addition to the six trees (3-3.6m high at planting) proposed along this boundary and 1045 shrub plants (60-90cm at planting) along this bank. It is therefore considered that the proposed landscaping will mitigate against any significant loss of privacy to both Fenland, and the dwelling Landermere at 35 Mill Lane.
- 1.6 The levels of the open space and attenuation depression closest to the new dwellings and in the corner of the site closest to the Martello Tower remain unchanged so there is no material change to the setting of the Martello Tower under this application. Due to the separation distance (86 metres minimum), and the orientation of site boundaries and vegetation, views of the Martello Tower from the Marina area would be across the middle of the area incorporating the attenuation depression. The levels in this area remain unchanged and it is therefore considered that there would be no material impact upon views of the heritage asset from the proposed works.

Recommendation:

That the Head of Planning be authorised to grant planning permission for the development subject to the conditions stated in section 8.2.

2. Planning Policy

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

National Planning Practice Guidance

NPPF National Planning Policy Framework 2019

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

EN13 Sustainable Drainage Systems

EN23 Development within the Proximity of a Listed Building

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

SP1 Presumption in Favour of Sustainable Development

SP6 Place Shaping Principles

SPL3 Sustainable Design

PPL1 Development and Flood Risk

PPL5 Water Conservation, Drainage and Sewerage

PPL9 Listed Buildings

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.

3. Relevant Planning History

11/00903/OUT	Proposed redevelopment of the Martello Caravan Park for a new residential neighbourhood with ancillary mixed-use commercial zone. Phase 1 comprising a site area of fifteen acres and providing 150 dwellings including sheltered housing and ancillary commercial zone to include a food superstore, retirement home and doctors group practice/health centre.	Withdrawn	12.08.2011
12/01147/DEMCON	Demolish the Wellington Suite Complex; Amusement arcades and associated stores, supermarket, offices & stores, former camp offices, new camp offices and stores, former cinema building, garage / workshop buildings, sewerage pumping station and swimming pool, enclosure and associated buildings.	Withdrawn	26.09.2013
13/01412/OUT	Hybrid application for proposed development consisting of: - a 60 unit extra care apartment block: 48 single bed apartments, 12 two bed apartments (full planning permission sought) - a medical centre and pharmacy (outline planning permission sought).	Withdrawn	19.03.2014
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

14/01837/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
16/00171/FUL	Construction of a temporary access.	Approved	01.04.2016
16/00997/FUL	Implementation of a new sub station to cater for wider site redevelopment proposals.	Approved	31.08.2016
16/02019/TELLIC	Installation of 1 no. OSCP cabinet.	Determination	21.12.2016
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 (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.	Approved	11.07.2017
17/01412/DISCON	Discharge of Condition 09 (Roofing Materials) of Planning Permission 15/01714/FUL.	Approved	05.09.2017
17/02013/DISCON	Discharge of condition 11 (Boundary Treatment) of approved planning permission 15/01714/FUL.	Approved	12.12.2017
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	Approved	20.09.2018

(external lighting), 13 (Highways details), and 15 (Construction Method Statement) of 15/01714/FUL.

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
18/01297/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
18/01781/DISCON	Discharge of Condition 3 (Hard and Soft Landscaping) of application 15/01714/FUL with drawing 20875/CIV/1251 C3 substituting drawing 1251 T1.	Withdrawn	11.12.2018
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
19/00981/FUL	Proposed re-grading earthworks and associated landscaping and fencing to the permitted open space consented under application 15/01714/FUL.	Current	

4. Consultations

ECC SuDS

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following:
 We have no objection to this application, however the site should be subject to the previously recommended drainage conditions as part of application 15/01714/FUL.

Environment Agency

We have inspected the application, as submitted, and we are now in a position to remove our holding objection to the plans as proposed, providing that you have taken into account the flood risk considerations which are your responsibility. We have highlighted these in the flood risk section below.

Flood Risk

Our maps show the site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for re-grading earthworks land raising and landscaping an amenity open space, and our view is that this is classified as a

'water compatible' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Please note that our view should not fetter the local planning authority in reaching its own conclusion on the flood risk status of the development proposal.

Therefore, to comply with national policy the application is required to pass the Sequential Test and be supported by a site specific Flood Risk Assessment (FRA).

To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA by RSK Land & Development Engineering Ltd, referenced 133589-R2(1)-FRA and dated 30th May 2019, are:

Actual Risk

- The site lies within the flood extent for a 0.5% (1 in 200) annual probability event, including an allowance for climate change.

- The site does benefit from the presence of defences. The defences have an effective crest level of 3.80m AOD which is below 0.5% (1 in 200) annual probability flood level including climate change and therefore the site is at actual risk of flooding in this event.

- The existing site level is at a minimum of 3.05m AOD and therefore flood depths on site are 0.86m in the 0.5% (1 in 200) annual probability flood event including climate change.

- Finished land raised site levels have been proposed at a minimum of 4.05m AOD. This is above the current day 0.5% (1 in 200) annual probability flood level of 3.91m AOD and therefore dry of flooding by 0.14m depth in this event. As such these proposed works result in this site no longer flooding in the current day 0.5% flood event.

- Finished land raised site levels have been proposed at a minimum of 4.05m AOD. This is below the 0.5% (1 in 200) annual probability flood level including climate change of 5.01m AOD and therefore at risk of flooding by 0.96m depth in this event.

- Finished land raised site levels have been proposed at a minimum of 4.05m AOD. Therefore there is not refuge above the 0.1% (1 in 1000) annual probability flood level including climate change of 5.39m AOD.

- Therefore assuming a velocity of 0.5m/s the flood hazard is danger for most including the general public in the 0.5% (1 in 200) annual probability flood event including climate change.

However section 7.2 of the FRA states that safe access and egress from the public open space is achieved through the residential development directly south of this proposed open space. This residential development has land raised above the 0.5% (1 in 200) annual probability flood level including climate change.

- Therefore this proposal does have a safe means of access in the event of flooding from all new buildings to an area wholly outside the floodplain up to a 0.5% (1 in 200) annual probability including climate change flood event. A Flood Evacuation Plan has not yet been proposed.

- Compensatory storage is not required.

Residual Risk

- Section 5.1.1 of the FRA explores the residual risk of a breach using the Environment Agency's tidal breaches from the Clacton 2018 (JBA) tidal model. The site could experience breach flood depths of up to 2 metres during the 0.5% (1 in 200) annual probability including climate change breach flood event and up to 2 metres during the 0.1% (1 in 1000) annual probability including climate change breach flood event (up to the year 2118).
- Therefore assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.
- Finished land raised site levels have been proposed at a minimum of 4.05m AOD. This is below the 0.5% (1 in 200) annual probability breach flood level including climate change of 5.05m AOD and therefore at risk of flooding by 1m depth in this event.
- Finished land raised site levels have been proposed at a minimum of 4.05m AOD. Therefore there is not refuge above the 0.1% (1 in 1000) annual probability breach flood level including climate change of 5.05m AOD.

Environmental Permit for Flood Risk Activities

The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The Walton Channel, is designated a 'main river'. Application forms and further information can be found at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. Anyone carrying out these activities without a permit where one is required, is breaking the law.

5. Representations

- 5.1 Frinton and Walton Town Council: Original plans: REFUSAL due to the application being retrospective and the concern of the residents in Mill Lane in regard to the drainage. Amended plans: REFUSAL – lack of in depth information received.
- 5.2 This application has been called in by Councillor Turner on the grounds that it will be detrimental to its neighbours and does not address drainage and possible landslip issues.
- 5.3 Two letters of objection have been received summarised below:
 - In discussions with the developer in 2015 were assured this area would be left level to protect views to Martello Tower and views and drainage from existing properties.
 - The raising at up to 2 metres will allow views directly into neighbouring properties.
 - Spot heights not taken in lower areas
 - No profile plans or drainage diagrams
 - Water table already high
 - Developer not communicating with regular newsletters as previously promised
 - Justification that land needs to be raised to tie in with housing levels is dubious
 - Cross sections don't appear to accurately reflect ground levels in Fenland so are misleading
 - Raised level will allow overlooking onto Fenland and Landermere resulting in loss of privacy contrary to QL11, SPL3 and SP6.

- Flood zone 3 at high risk of flooding and will surely displace flood water over the counter wall and weaken it contrary to QL3, PPL1 and SPL3.
- Adverse impact on surface water drainage contrary to EN13, PPL5 and SPL3.
- Martello Tower is Grade II listed and a Scheduled Monument raised ground levels are within its protected viewing corridor contrary to the NPPF and heritage policies EN23, EN29 (archaeology), QL9, QL11, PPL9, SP6 and SPL3.

6. Assessment

Site Context

- 6.1 The site is located within Walton-on-the-Naze to the north west of the town centre. The wider Martello regeneration site (previously Martello Caravan Park) extends to 14 hectares in total comprising housing, care accommodation and supermarkets.
- 6.2 The application site falls outside of the settlement development boundary for Walton-on-the-Naze in the adopted Local Plan, but within in the emerging Local Plan reflecting the fact it forms part of a large housing development resulting from the approval of 15/01714/FUL. The site also lies within tidal Flood Zone 3a having a high probability of flooding.
- 6.3 To the eastern boundary lies Walton Marina; to the southern boundary lies a vacant plot known as Fenland 36 Mill Lane, with dwellings beyond fronting Mill Lane. The north and west boundaries are to the new housing development. To the south-western edge of the application site lies Martello Tower K which is a Scheduled Ancient Monument and Grade II Listed Building.

Planning History

- 6.4 15/01714/FUL approved erection of 216 dwellings which included associated re-profiling of ground levels to raise parts of the site above flood risk level. The site is currently at an advanced stage of construction. The application proposal relates to a small area of public open space in the south-eastern corner of the site, known as Martello Green. The larger area of public open space is at the north of the site and planning permission was granted (18/01921/FUL) under delegated powers in September 2019 to undertake additional earthworks to create a more level area of play. Typically the levelling involved raising by 1 metre adjacent the external boundaries, and up to 3 metres mainly to the banks of the attenuation pond and the centre of the open space.
- 6.5 The land raising proposed within this application was originally submitted as a discharge of the landscaping condition (18/01781/DISCON) but that was withdrawn as it was confirmed the works required full planning permission.
- 6.6 This application was submitted in July 2019 and subject to consultation at that time. However, it was confirmed as invalid by the Case Officer as insufficient drawings in relation to existing and proposed levels had been provided. Sections have been provided, two along each affected boundary to illustrate the change in levels. This additional information was provided in December 2019 and has been subject to reconsultation which has now expired.

Proposal

- 6.7 The application proposes re-grading earthworks to the smaller open space approved under 15/01714/FUL. This area has already been partly raised and is currently being used for construction parking and materials storage.
- 6.8 The approved details include the sloped pathway shown and depression which provides minimum 18 cubic metres volume to accommodate localised surface water flooding from the adjacent road in an extreme event. These details remain unchanged.

- 6.9 The development to be considered is land raising with a 1:3 slope down to the existing ground levels along the full southern boundary with Fenland 36 Mill Lane and the north-eastern boundary with the road and Walton Marina beyond.

Principle of Development

- 6.10 The proposal relates to alterations to an approved area of open space associated with a residential development of 216 dwellings (15/01714/FUL). The principle of development is therefore accepted subject to the detail of the proposal as considered below.

Visual Impact

- 6.11 The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These considerations are reflected in emerging Policy SPL3.
- 6.12 The approved Flood Risk Assessment requires a minimum ground floor slab level of 5.1m Above Ordnance Datum (AOD) for the dwellings. The levels of the open space closest to the dwellings remain as approved 5.030-5.230m AOD. The site would then slope to the east and the south to 4.400-4.050m AOD before then dropping at a 1:3 gradient to meet the existing ground level. Existing and proposed spot heights and four sections have been provided to illustrate the change in levels.
- 6.13 Along the Southern boundary with Fenland 36 Mill Lane the slope will begin between 2m and 2.8m away from the boundary and rise up the proposed bank to a height increase of approximately 1.2m. Along the Eastern boundary with the ditch, road and Marina beyond there is already a small raised bank under the vegetation. The proposed slope will begin approximately 4.4m away from the boundary and rise up the proposed bank to a height increase of approximately 1.2m. Existing levels across the site vary being generally lowest to the east (around 3.05-3.15m) and rising to the south western corner (around 3.54-3.68). There are therefore larger increases of around 1.3m-1.6m at some points. The approved area around the attenuation depression represents the largest land raising above existing ground level at around 2 metres.
- 6.14 Given the existing levels surrounding this site and the screening provided by existing vegetation it is not considered the visual impact of the land raising will result in any material harm to visual amenity or the character of the surrounding area.

Flood risk/drainage

- 6.15 The site lies within tidal Flood Zone 3a having a high probability of flooding. The original approval was subject to a Flood Risk Assessment (FRA) and conditions relating to surface water drainage. A Flood Risk Assessment has been submitted with this application and has been subject to consultation with both the Environment Agency and ECC SuDs as Lead Local Flood Authority.
- 6.16 An existing counter flood wall runs along the boundary with the vacant plot at Fenland 36 Mill Lane with other flood defences to the front of that plot and along the north-eastern boundary facing the Marina.
- 6.17 The approved details include the sloped pathway shown and depression which provides minimum 18 cubic metres volume to accommodate localised surface water flooding from the adjacent road in an extreme event. These details remain unchanged. The development to be considered is land raising with a 1:3 slope down to the existing ground levels along the full

southern boundary with Fenland 36 Mill Lane and the north-eastern boundary with the road and Walton Marina beyond.

- 6.18 The FRA compares the pre-development topography and post-development topography where levels vary from 3.05m Above Ordnance Datum (AOD) to 5.00m AOD. Levels across the site generally fall from west to east. The site lies within defended Flood Zone 3a associated with the Walton Channel, and benefits from the tidal flood defences. As part of the wider Martello Caravan Park development levels have been raised above the 1 in 200 year plus climate change flood event.
- 6.19 The Environment Agency's comments are detailed under Consultations above. They confirm this is a 'water compatible' development and is required to pass the Sequential Test. The Sequential Test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding. The aim is to steer new development to Flood Zone 1 (low probability of flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (medium probability of flooding). Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (high probability of flooding) be considered. In this case the proposal relates to an area of open space required to serve the recreational and surface water drainage needs of the 216 dwellings approved under 15/01714/FUL. These needs cannot be met elsewhere as they must directly serve the existing/under construction development.
- 6.20 The Environment Agency confirm the land raising will reduce flood depths on the open space in the 1 in 200 annual probability flood event. With some areas being dry of flooding, and others at risk of flooding by up to 0.96m depth. Finished land raised site levels have been proposed at a minimum of 4.05m AOD. Therefore there is not refuge above the 0.1% (1 in 1000) annual probability flood level including climate change of 5.39m AOD resulting in danger for most in a 1 in 200 flood event. In a 1 in 1000 breach event the site would be at risk of flooding up to 1m deep. However, the directly adjacent residential development lies above this level so there is a safe means of escape directly adjacent to the open space. Furthermore, this is an improvement from the approved levels within the majority of this open space area and would therefore reduce flood risk for users of the open space.
- 6.21 The site is not in Flood Zone 3b (functional flood plain) so it is not raising flood plain land. The Environment Agency have also confirmed that compensatory storage is not required.
- 6.22 ECC SuDS confirm no objection but confirm the site should be subject to the previously recommended drainage conditions as part of application 15/01714/FUL. Those conditions still apply and the approved surface water drainage scheme, including the small attenuation depression on this open space remain as approved.
- 6.23 The proposal is therefore considered acceptable in terms of drainage and flood risk.

Landscaping

- 6.24 The landscaping scheme in terms of the proposed soft and hard landscape design/layout for the open space has previously been approved under the already consented development.
- 6.25 The new proposal largely reflects the approved landscaping with a mixture of grass, wildflowers and tree planting but proposes 6 additional trees (3 Black Alder and 3 Silver Birch) along the boundary with Fenland 36 Mill Lane and 1045 shrub plants along this bank. Fencing is also proposed to the boundaries with this plot with 2m high chain link fencing along the long southern boundary and 1.8m close boarded fencing above gravel boards to the western boundary. The information submitted is considered sufficient to secure a satisfactory level of new planting.

Impact on Residential Amenity

- 6.26 The NPPF states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Emerging Local Plan.
- 6.27 To the southern boundary lies a vacant plot known as Fenland 36 Mill Lane, with dwellings beyond fronting Mill Lane. Fenland is stated to have been used for over sixty years as amenity space including camping weekends/BBQs in the same family ownership as the nearby dwelling at West Water 34 Mill Lane. This site has the appearance of a vacant plot with maintained lawn with sporadic trees and planting. The only planning history on the plot is a 2001 approval 'To culvert and fill ditch and replace bridge access'.
- 6.28 The nearest dwelling is Landermere 35 Mill Lane which is located around 20 metres from the southern boundary. Landermere is a three storey dwelling with the second floor within the mansard roof. It has first and second floor windows on the facing flank, and first and second floor windows and a large first floor balcony on the rear. There is intervening vegetation which provides good screening to the rear garden but the large rear balcony and windows can be seen from the application site.
- 6.29 Along the Southern boundary with Fenland 36 Mill Lane the slope will begin between 2m and 2.8m away from the boundary and rise up the proposed bank to a height increase of approximately 1.2m. The top of the slope is around 6 metres from the boundary. Fenland is a vacant plot not a residential property and the impact upon loss of privacy should be considered accordingly. There will be overlooking from the application site to Fenland, exacerbated by the land raising. However, this land is a small area of open space with the much larger open space to the north of the housing development. There is also existing vegetation within the control of Fenland which offers screening, in addition to the six trees (3-3.6m high at planting) proposed along this boundary and 1045 shrub plants (60-90cm at planting) along this bank. It is therefore considered that the proposed landscaping will mitigate against any significant loss of privacy to both Fenland, and the dwelling Landermere at 35 Mill Lane.
- 6.30 The north and west boundaries are to the new housing development. The approved Flood Risk Assessment requires a minimum ground floor slab level of 5.1m AOD for the new dwellings. The levels of the open space and attenuation depression closest to the new dwellings remains unchanged so there is no additional impact upon the occupants of the new dwellings.
- 6.31 A construction method statement condition has been recommended to reduce disturbance, pollution, and inconvenience to highway users during the construction phase.

Heritage Impact

- 6.32 Policy EN23 of the adopted 2007 Local Plan states development affecting a listed building or its setting will only be permitted where it, amongst other things, does not have an unacceptable effect on the special architectural or historic character and appearance of the building or its setting. These sentiments are echoed in Policy PLA8 of the draft Local Plan. The NPPF also attaches great importance to the protection of the historic environment, including designated heritage assets such as Scheduled Ancient Monuments and Listed Buildings.
- 6.33 To the south-western edge of the application site lies Martello Tower K which is a Scheduled Ancient Monument and Grade II Listed Building.

6.34 The levels of the open space and attenuation depression closest to the new dwellings and in the corner of the site closest to the Martello Tower remain unchanged so there is no material change to the setting of the Martello Tower under this application. The changes occur to the north of the boundary with Fenland 36 Mill Lane and towards the boundary with the Marina. Due to the separation distance (86 metres minimum), and the orientation of site boundaries and vegetation, views of the Martello Tower from the Marina area would be across the middle of the area incorporating the attenuation depression. The levels in this area remain unchanged and it is therefore considered that there would be no material impact upon views of the heritage asset from the proposed works.

7. Conclusion

As detailed in the report above the proposal is not considered to result in any material harm to visual amenity or the character of the surrounding area; flood risk or drainage; residential amenity; or the setting or significance of the Scheduled Ancient Monument and Grade II Listed Building Martello Tower K and is therefore recommended for approval.

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

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 be carried out in accordance with the following approved details: Drawing numbers 19.4056.01, 20872/CIV/1251 Rev C3, and 20872/CIV/1530 Rev P3; and Flood Risk Assessment by RSK ref 133589-R2(1)-FRA.

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 plan Drawing number 19.4056.01 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 adequate maintenance of the approved landscaping scheme for a period of five years in the interests of the character of the surrounding area.

4. No development shall take place until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development

- iv. wheel and under body washing facilities
- V. dust suppression techniques

Reason – In the interests of residential amenity and to ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

8.3 Informatives

1. 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.
2. The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The Walton Channel, is designated a 'main river'. Application forms and further information can be found at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. Anyone carrying out these activities without a permit where one is required, is breaking the law.

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/>.