

DELEGATED DECISION OFFICER REPORT

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Application: 19/01872/FUL **Town / Parish:** Frating Parish Council

Applicant: Mr R Sothinathan

Address: Tall Trees Frating Hill Frating

Development: Proposed 5 Bungalows with associated parking, landscaping and access.

1. Town / Parish Council

Frating Parish Council

Object to this application for the following reasons:

- Back land development, setting a negative precedence
- Over development of the area
- Concern for additional vehicles coming out onto a 60 mph road
- The development in Tokely Road is adding 67 dwellings (inc flats and bungalows) to the village this is more than a sufficient addition, more dwellings are not needed
- Parking for vehicles of the proposed dwellings is not sufficient

2. Consultation Responses

Essex County Council
Archaeology

The above application has been identified on the weekly planning list.

The proposed development lies within an area of recorded cropmark evidence of possible historic or earlier agricultural activity as well as possible prehistoric ritual activity. The site lies to the rear of a historic route, nearby buildings date to the 17th century. Little archaeological investigation has been completed in this area though findspots from the surrounding fields suggest activity spanning from the Iron Age to the medieval period. The site retains its historic boundaries and appears to have remained undeveloped, the potential for survival of archaeological remains is good. Any below ground archaeological remains would be impacted by the proposed development.

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

RECOMMENDATION: A Programme of Archaeological evaluation

1. No development or preliminary ground-works can commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority.

2. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ, shall be submitted to the local planning authority.

3. No development or preliminary groundwork can commence on those areas of the development site containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been signed off by the local planning authority.

4. Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the planning authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Further Recommendations:

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

ECC Highways Dept

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

1 Prior to the first occupation of the proposed dwellings, the proposed vehicular access shall be reconstructed to a width of 6.0m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

3 Prior to the proposed reconstructed access being brought into use the applicant shall provide a 2.4m wide parallel band visibility splay across the entire site's frontage to Frating Hill which shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the

interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4 Prior to first occupation of the proposed development, a communal recycling/bin/refuse collection point shall be provided within 15m of the highway boundary or adjacent to the highway boundary and additionally clear of all visibility splays at accesses and retained thereafter.

Reason: To minimise the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

5 Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 6m. from the highway boundary.

Reason: To ensure that vehicles using the access may stand clear of the carriageway whilst those gates are being opened/closed, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

6 Prior to the occupation of the proposed development the proposed access route (private drive) shall be provided to a width of 6.0m throughout, where vehicular access is taken but without kerbing.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

7 All off street car parking shall be provided in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

8 Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

9 No development shall take place, including any ground works or works of demolition, until a Construction Management Plan (CMP) 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
Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

10 Prior to first occupation of the proposed development the applicant shall provide improvements to the eastbound bus stop outside Moorlands on Frating Hill by the provision of level entry kerbing, new post and flag, timetables, any adjustments in levels, surfacing and any accommodation works to the footway and carriageway channel being provided entirely at the applicant/Developer's expense to the specifications of the Highway Authority.

Reason: To make adequate provision for the additional bus passenger traffic generated as a result of the proposed development in accord with Policy DM 9 of the Highway Authority's Development Management Policies February 2011.

Informative 1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 - Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

3. Planning History

91/01286/FUL	Conversion of dwelling and extensions to form residential care home plus living accommodation.	Refused	04.02.1992
92/00235/FUL	Conversion of dwelling and extensions to form nursing and residential care home for 16 residents, plus private living accommodation	Refused	19.05.1992
93/00645/FUL	(Tall Trees, Clacton Road, Frating) Change of use, workshop and store to meat preparation area	Approved	20.07.1993

95/00611/FUL	(Tall Trees, Clacton Road, Frating) Change of use - Workshop and store to meat preparation area (renewal of planning permission TEN/93/0645)	Approved	04.07.1995
98/00782/FUL	Change of use - workshop and store to meat preparation area (Renewal of planning permission TEN/95/0611)	Approved	11.08.1998
05/01461/FUL	Proposed detached garage	Approved	16.11.2005
05/01808/FUL	Proposed Conservatory	Approved	13.01.2006
19/01113/FUL	One new dwelling with garage, parking and landscaping.	Approved	22.10.2019

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
HG9	Private Amenity Space
HG13	Backland Residential Development
EN1	Landscape Character
EN6	Biodiversity
EN6A	Protected Species
EN11A	Protection of International Sites European Sites and RAMSAR Sites
COM6	Provision of Recreational Open Space for New Residential Development
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development

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

SPL1	Managing Growth
SPL3	Sustainable Design
LP1	Housing Supply
LP3	Housing Density and Standards
LP4	Housing Layout
LP8	Backland Residential Development
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
HP5	Open Space, Sports & Recreation Facilities
CP1	Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

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

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

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

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not

possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site relates to land adjacent to Tall Trees, Frating Hill, Frating which is currently used as amenity land and covers 0.49 Ha. Whilst there are examples of detached residential dwellings with large curtilages within the immediate vicinity to the east and west, the area is typically rural in character, with large open grassed and agricultural plots of land to all sides. The site lies outside of a Settlement Boundary, as established within both the saved Tendring Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Proposal

This planning application seeks planning permission for the erection of five dwellings. The application proposes two house types of which all five are bungalows.

Assessment

The main considerations for the application are;

1. Principle of Development
2. Layout, Scale and Impact
3. Backland development
4. Trees and Landscaping
5. Financial Contributions - Open Space
6. Habitat Regulations Assessment
7. Representations

1. Principle of development

The site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

The National Planning Policy Framework 2019 (NPPF) requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has

been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

At the time of this report, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

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

- Assessment of Sustainable Development

Development should be plan led unless material considerations indicate otherwise.

However, in line with Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective. For completeness, these are assessed below.

- economic;
- social, and;
- environmental roles.

- Economic

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

- Social

Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraph 17 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.

Frating is identified as a village within saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Rural Settlement within Policy SPL1 of the emerging Tendring District Local Plan Publication Draft (2017). These smaller villages are considered to be the least sustainable locations for growth and there is a concern that encouraging too much development in these areas will only serve to increase the number of people having to rely on cars to go about their everyday lives. It is accepted that each of these smaller rural settlements can achieve a small scale increase in housing stock over the plan period. To allow for this to happen, Settlement Development Boundaries have been drawn flexibly, where practical, to accommodate a range of sites both within and on the edge of villages and thus enabling them to be considered for small-

scale residential 'infill' developments. With this in mind, where appropriate the emerging Local Plan settlement development boundary has been extended but does not include the application site.

In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal, both on the undeveloped character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by the benefits. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the aims of paragraphs 15, 17 and 20 of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SP1.

-Environmental

Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

Although the site could not be described as wholly isolated, due to the presence of dwellings to the south east and south west, the area is characterised by linear residential development fronting Frating Hill. The application site is located within a clear break in built form within an expanse of openness and the introduction of five dwellings in this location are considered wholly out of character.

The development would represent an unacceptable incursion into the countryside being uncharacteristic of its surroundings. The development would be harmful to the character and appearance of the area failing to make a positive contribution to the quality of the local environment and failing to protect or enhance local character. The provision of five dwellings would make only a very small contribution to the delivery of housing in the district. Furthermore, the development would set an undesirable precedent for harmful backland development further eroding the rural character of the Frating Hill. The harm to the character and appearance of the area would significantly and demonstrably outweigh this development's modest housing supply benefits.

2. Backland development

'Backland' forms of development can undermine the established character of an area, particularly if that character predominantly comprises linear street fronting development as is the case here. Allowing such development, especially if similar schemes were to be repeated elsewhere in a locality, will undermine the character of the area and set an undesirable precedent. Development behind an established building line can also appear incongruous, forming an inappropriate tandem and cramped form of development. To avoid such problems, backland development requires careful consideration, including the need for an appropriate means of access to a 'backland' plot, which is in a form which is safe and convenient for both drivers and pedestrians.

Paragraph 127 of the Framework requires that development should respond to local character and history, and reflect the identity of local surroundings and materials and adds that it is proper to seek to promote or reinforce local distinctiveness. Saved Policy HG13 of the adopted 2007 Local Plan and emerging Policy LP8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 are of particular relevance in this instance due to the nature of the development constituting backland development. Saved Policy HG13 states that proposals for the residential development of backland sites must comply with certain criteria (echoed in emerging Policy LP8) which is set out and addressed below:

i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;

The plot is located outside the Settlement Development Boundary and is therefore not safeguarded or allocated for any use other than residential.

ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;

- Highways and Parking

Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Essex Highway Authority have been consulted on this application and do not raise any objections to the application subject to conditions relating to; proposed vehicular access, no unbound materials, parallel band visibility splays, communal recycling/bin/refuse collection, gates inward opening, private drive, off street parking in accordance with plans, bicycle storage, construction management plan and improvements to the eastbound bus stop outside Moorlands on Frating Hill.

Further, Essex Parking Standards state that there should be minimum parking provision for a dwelling with two or more bedrooms for parking spaces measuring 5.5m x 2.9m and garages should measure 7 metres by 3 metres. Dwg No. P01 demonstrates that each dwelling comprises of a garage which will measure 7 metres by 3 metres as well as comprising of a driveway which can accommodate a parking space measuring 5.5 metres by 2.9 metres. It is therefore considered that the proposed development can provide sufficient parking provision for each dwelling.

- Private Amenity Space

To accord with Saved Policy HG9 of the adopted Tendring District Local Plan 2007 the following minimum garden sizes would be required;

- 1 bedroom = 50 square metres
- 2 bedroom = 75 square metres
- 3 or more bedrooms = 100 square metre

The application proposes five three bedroom dwellings which will therefore require a minimum of 100 square metres of private amenity space. Dwg No. 02 demonstrates that sufficient private amenity space is provided for each dwelling.

- Impact on Residential Amenities

Saved Policy QL11 of the Tendring District Local Plan (2007) states that new development will only be permitted if, amongst other things, the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The NPPF, in paragraph 127 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 Tendring District Local Plan (2007) states that amongst other criteria, '*development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties*'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

In terms of impact on neighbouring amenities, there are adjacent neighbours to the south of the site; Cedar Lodge and the proposed two storey dwelling approved under planning reference 19/01113/FUL. However, due to the distance of approximately 48 metres to the neighbouring boundary, it is considered that the proposed development will not cause any significant impact upon neighbouring amenities.

The proposed development will be visible to Tall Trees to the east, however, due to the distance of approximately 65 metres to the neighbouring boundary as well as the existing vegetation along the boundary, it is considered that the proposed development will not cause any significant impact upon neighbouring amenities.

iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;

The development will be served by a long narrow shared access drive that would be detrimental to the character and appearance of the locality and wholly out of character with the pattern of development in the area.

iv. the proposal does not involve "tandem" development using a shared access;

The development would constitute tandem development that could set a harmful precedent for other similar forms of development in the vicinity.

v. the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;

The application site could potentially allow for further development to the south of the application site which would set a harmful precedent for other forms of development in the vicinity.

vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and

The proposed application site will be located away from the linear form of development currently situated along Frating Hill. The introduction of the proposed site would therefore be considered out of character in its setting and therefore failing this criteria.

vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.

The proposal is for five detached bungalows which will be located to the north of the application site. The main character of Frating Hill although rural, there is a road frontage, linear development with an established front building line. The proposed development would represent an unacceptable cramped form of backland development being wholly out of character with the area setting a harmful precedent for other cramped inappropriate plot sub-divisions to the rear of other properties within the surrounding area.

In terms of design; the application proposes two house types; type one and type two. House type one comprises of a bungalow which has two gable projections with a bay window and an integral garage. House type two comprises of a bungalow which has one gable projection with two bay windows and an integral garage. The materials proposed for all five dwellings are; red face

brickwork, painted render, concrete interlocking tiles with UPVC windows and doors. It is therefore considered that the proposed design and materials are acceptable in this location.

3. Trees and Landscaping

The application site currently forms part of the garden of the host property and is set to lawn. There are two groups of trees and a few individual trees on or close to the application site. The boundary of the existing garden with the highway is demarcated by an established conifer hedge that provides comprehensive screening for the whole site with the exception of the existing, narrow, vehicular access that allows 'glimpsed' views of the site. The garden is well populated with established trees on its boundaries and there is an avenue of decorative coniferous species either side of the existing drive which would appear to serve the proposed development. It would appear that the removal of some of the smaller trees may be necessary to improve the access road although this will not have an adverse impact on the appearance of the local environment. The application site is set back some distance from the highway and a result of intervening vegetation cannot be clearly seen from a public place. Consequently the contribution that the trees on the land make to the public realm is commensurately low. A condition could be imposed to secure details of the way that retained trees will be physically protected for the duration of the construction phase of the development and to secure the tree planting shown on the drawing titled 'Site Layout, Landscaping and Street Scene'.

4. Legal Obligations

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

No contribution is requested from the public realm.

5. Habitats Regulation Assessment

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

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

The application scheme proposes a dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 3.8 km away from the Colne Estuary SPA and RAMSAR and Essex Estuary SAC. Since the development is for five dwellings, the number of additional recreational visitors would be limited and the likely effects on Colne Estuary and Essex Estuary from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to Colne Estuary and Essex Estuary and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

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

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

6. Archaeology

Essex County Council Archaeology have been consulted on this application and has stated the following; the proposed development lies within an area of recorded cropmark evidence of possible historic or earlier agricultural activity as well as possible prehistoric ritual activity. The site lies to the rear of a historic route, nearby buildings date to the 17th century. Little archaeological investigation has been completed in this area though findspots from the surrounding fields suggest activity spanning from the Iron Age to the medieval period. The site retains its historic boundaries and appears to have remained undeveloped, the potential for survival of archaeological remains is good. Any below ground archaeological remains would be impacted by the proposed development. Essex Archaeology have suggested conditions relating to the following to be imposed; a Written Scheme of Investigation to be submitted to the local planning authority (LPA), a summary report detailing the approach to further archaeological excavation and/or preservation in situ to be submitted to the LPA, areas of the development site containing archaeological deposits, until the satisfactory completion of the archaeological fieldwork as detailed in the mitigation strategy shall be submitted to the LPA and a post excavation assessment within 6 months of the completion dates unless otherwise agreed in advance by the LPA.

7. Other representations

Frating Parish Council have objected to this application for the following reasons;

- Backland development - setting a negative precedent.
- Overdevelopment of the area
- Concern for additional vehicles coming onto a 60 mph road
- The development in Tokely Road is adding 67 dwellings (inc flats and bungalows) to the village this is more than a sufficient addition, more dwellings are not needed.
- Parking for vehicles is not sufficient

7 letters of representation have been received (two from the same address) raising the following concerns;

- The application site is located outside of the settlement boundary
- Over development, increased traffic will cause huge risk on an already fast and dangerous road.
- Mislead by the 5 year housing supply at Parish Council Meeting and within planning statement
- Considered to be another example of "creep" whereby small developments on the outskirts of villages are approved and gradually eat into the fabric of the village.
- Extra vehicular movements from the Tall Trees driveway.
- The development will also have a negative impact on the wildlife in the area.
- This area of Frating can be categorised in the emerging policy SPL1 as a smaller rural settlement with its relatively small range, if indeed any local services. Therefore it is considered to fail the social objective and conflict with Policy QL1 and SPL1.

The concerns raised above have been addressed within the report.

- The proposed development area was once home to a substantial pond. This has left the ground considerably water logged alongside this we at Cedar Lodge have experienced problems with the soak away systems as the water table is so high in this area.

The concern above is a building regulations matter and not a material planning consideration. If you have any further queries, please contact the TDC Building Regulations Team.

- The site plan is not correct and the strip of land running behind Cedar Lodge has 5 trees with TPO's which have not been taken into account within the site plan.

In response to this concern, drawing no. P02 shows that the trees are being retained along the rear boundary of Cedar Lodge.

6. Recommendation

Refusal - Full

7. Conditions / Reasons for Refusal

- 1 Paragraph 127 of the National Planning Policy Framework (NPPF) requires that development should respond to local character and history, and reflect the identity of local surroundings and materials. Paragraph 192 adds that it is proper to seek to promote or reinforce local distinctiveness. Saved Policy HG13 of the adopted 2007 Local Plan and emerging Policy LP8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 are of particular relevance in this instance due to the nature of the development constituting backland development. Saved Policy HG13 states that proposals for the residential development of backland sites will only be approved where it meets specific criteria.

The plot is located outside the Settlement Development Boundary and is therefore not safeguarded or allocated for any use other than residential.

The development will be served by a long narrow shared access drive that would be detrimental to the character and appearance of the locality and wholly out of character with the pattern of development in the area.

The development would constitute tandem development that could set a harmful precedent for other similar forms of development in the vicinity.

The application site could potentially allow for further development to the south of the application site which would set a harmful precedent for other forms of development in the vicinity.

The proposed application site will be located away from the linear form of development currently situated along Frating Hill. The introduction of the proposed site would therefore be considered out of character in its setting and therefore failing this criteria.

The proposal is for five detached bungalows which will be located to the north of the application site. The main character of Frating Hill although rural, there is a road frontage, linear development with an established front building line. The proposed development would represent an unacceptable cramped form of backland development being wholly out of character with the area setting a harmful precedent for other cramped inappropriate plot sub-divisions to the rear of other properties within the surrounding area.

For these reasons, the proposal is considered contrary to Saved Policy HG13 criterion i, iii, iv, v, vi and vii and the aims of the NPPF.

- 2 Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of paragraph 17 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.

Frating is identified as a village within saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Rural Settlement within Policy SPL1 of the emerging Tendring District Local Plan Publication Draft (2017). These smaller villages are considered to be the least sustainable locations for growth and there is a concern that encouraging too much development in these areas will only serve to increase the number of people having to rely on cars to go about their everyday lives. It is accepted that each of these smaller rural settlements can achieve a small scale increase in housing stock over the

plan period. To allow for this to happen, Settlement Development Boundaries have been drawn flexibly, where practical, to accommodate a range of sites both within and on the edge of villages and thus enabling them to be considered for small-scale residential 'infill' developments. With this in mind, where appropriate the emerging Local Plan settlement development boundary has been extended but does not include the application site.

In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal, both on the undeveloped character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by the benefits. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the aims of paragraphs 15, 17 and 20 of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SPL1.

- 3 Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

Although the site could not be described as wholly isolated, due to the presence of dwellings to the south east and south west, the area is characterised by linear residential development fronting Frating Hill. The application site is located within a clear break in built form within an expanse of openness and the introduction of five dwellings in this location are considered wholly out of character.

The development would represent an unacceptable incursion into the countryside being uncharacteristic of its surroundings. The development would be harmful to the character and appearance of the area failing to make a positive contribution to the quality of the local environment and failing to protect or enhance local character. The provision of five dwellings would make an immaterial contribution to the delivery of housing in the district. Furthermore, the development would set an undesirable precedent for harmful backland development further eroding the rural character of the Frating Hill. The harm to the character and appearance of the area would significantly and demonstrably outweigh this development's modest housing supply benefits.

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

The application scheme proposes five dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 3.8 km away from the Colne Estuary SPA and RAMSAR and Essex Estuary SAC. Since the development is for five dwellings, the number of additional recreational visitors would be limited and the likely effects on Colne Estuary and Essex Estuary from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to Colne Estuary and Essex Estuary and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

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

2 Informatives

Positive and Proactive Statement

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

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO