

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	15/12/2020
Planning Development Manager authorisation:	TC	15/12/2020
Admin checks / despatch completed	CC	15.12.2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	DB	15.12.2020

**Application:** 20/01273/FUL **Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mr Laurence Sandum

**Address:** 17 Standley Road Walton On The Naze Essex

**Development:** Proposed demolition of existing dwelling and erection of 9 apartments, associated parking and landscaping.

### 1. Town / Parish Council

Frinton & Walton Town Council  
12.10.2020 REFUSAL - unsympathetic to the street scene.

### 2. Consultation Responses

Environment Agency  
26.10.2020  
**ORIGINAL COMMENTS**

Thank you for your consultation received on 28 November 2018. We have inspected the application, as submitted, and are raising a holding objection to this application on flood risk grounds as a Flood Risk Assessment (FRA) has not been submitted. The application does not therefore comply with the National Planning Policy Framework (NPPF).

#### Flood Risk

Our maps show the application site partially lies within Flood Zones 3, defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding respectively. Paragraph 163, footnote 50 of the NPPF requires applicants for planning permission to submit a site-specific FRA when development is proposed in such locations.

An FRA is vital if you are to make an informed planning decision. In the absence of an FRA, the flood risk resulting from the proposed development is unknown. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission.

#### Overcoming our Objection

The applicant can overcome our objection by undertaking an FRA that demonstrates that the development is safe without increasing risk elsewhere and, where possible, reduces flood risk overall. If this cannot be achieved, we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection.

We ask to be re-consulted with the results of the FRA. We will provide you with bespoke comments within 21 days of receiving formal re-consultation. Our objection will be maintained until an adequate FRA has been submitted.

Thank you for your consultation we have reviewed the plans as proposed and we have no objection to this planning application, 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 a proposed demolition of existing dwelling and erection of 9 apartments, associated parking and landscaping, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

### Sequential and Exception Tests

The requirement to apply the Sequential Test is set out in Paragraph 158 of the National Planning Policy Framework. The Exception Test is set out in paragraph 160. These tests are your responsibility and should be completed before the application is determined. Additional guidance is also provided on Defra's website and in the Planning Practice Guidance.

To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA, referenced 5628 and dated 22/09/2020, 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. However these defences will overtop in a 0.5% (1 in 200) annual probability flood level including climate change event and therefore the site is at actual risk of flooding in this event.
- Finished ground floor levels have been proposed at 2.7m 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 2.31m depth in this event.
- Ground floor development will be 'Less Vulnerable' use only.
- Finished first floor levels have been proposed at 5.7m AOD and therefore there is refuge above the 0.1% (1 in 1000) including climate change annual probability flood level of 5.38 m AOD.
- The site level is a minimum of 2.45m AOD and therefore flood depths on site are 2.56m in the 0.5% (1 in 200) annual probability flood event including climate change.
- 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.

- Therefore this proposal does not 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). We have no objections to the proposed development on flood risk access safety grounds because an Emergency Flood Plan has been submitted by the applicant but you should determine its adequacy to ensure the safety of the occupants.

- Compensatory storage is not required.

#### Residual Risk

- Our data shows that in a worst-case scenario the site could experience undefended flood depths of up to 2.56 metres during the 0.5% (1 in 200) annual probability including climate change breach flood event and up to 2.93 metres during the 0.1% (1 in 1000) annual probability including climate change worst case undefended flood event.

- 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 ground floor levels have been proposed at 2.7 m AOD. This is below the 0.5% (1 in 200) annual probability worst case undefended flood level including climate change of 5.01 m AOD and therefore at risk of flooding by 2.31m depth in this event.

- Flood resilience/resistance measures have been proposed.

- Finished first floor levels have been proposed at 5.70 m AOD and therefore there is safe refuge above the 0.1% (1 in 1000) annual probability worst case undefended flood level including climate change of 5.38m AOD.

- A Flood Evacuation Plan has been proposed.

#### Other Sources of Flooding

In addition to the above flood risk, the site may be within an area at risk of flooding from surface water, reservoirs, sewer and/or groundwater. We have not considered these risks in any detail, but you should ensure these risks are all considered fully before determining the application.

Additional information can be found at the end of this letter, we trust you find this advice useful.

Urban Design Advisor  
02.12.2020

Thank you for consulting us on the full planning application for 17 Standley Road, Walton On The Naze. This letter summarises our response to the submitted proposal for the proposed demolition of existing dwelling and erection of 9 apartments, associated parking and landscaping. The following comments are based on the development layout, elevations and supporting information submitted as part of the full planning application.

Layout

The proposed layout appears to be logical given the constraints of the site and the location of the neighbouring properties. We would like to see justification that the offset between the proposed block and Kings Reach abides by the Essex Design Guide with regards to rear privacy (<https://www.essexdesignguide.co.uk/design-details/architectural-details/rear-privacy/>). It is questioned that privacy distances maybe tight in places.

The proposed ground floor plan shows a disconnect between the car park area and the entrance to the building. This should be addressed to create a legible route for residents, avoiding the need to go back onto the street to access the building or cut across landscaped areas.

### Architecture and Design

We do not necessarily disagree with the approach to the grey brick finish however, the design should respond to the local vernacular. Based on a review of the local area there do not appear to be any grey brick buildings and further reference should be made to the example buildings in the area to which the built form responds to. Given the strong architecture of neighbouring buildings such as the school, it is considered this justification will be important in defining the proposed application.

The proposed western elevation aligns with the western boundary of the site and overlooks the neighbouring amenity space. This elevation will be a prominent feature of the building due to the orientation of the road, the gap between neighbouring school and the increase in scale. To integrate the proposed building within the area it is recommended that variety is added to this elevation. This could be achieved through the use of brick detailing to add depth, interest and variation in fenestration, to enhance the character of the elevation and positioning it as a focal point within the street scene.

Furthermore, the buildings appearance could also be enhanced by extending the base of the balconies to the depth of the buildings banding, this would create a more integrated approach rather than the appearance of a 'added feature'. Additional features such as downpipes and roof top services (if present) will need to be shown at this stage of the process. Large plant or awkward rain water goods can have a large impact on the approach the building is currently heading.

### Sustainable Design

In line with the Essex Design Guide the following sustainable design features should be incorporated into the design proposals. A large flat roof presents an opportunity to incorporate a green or brown roof into the design. This should be explored as a design opportunity and furthermore this may present an opportunity to positively impact surface water drainage on the largely impermeable site. Electric vehicle charging points should also be provided for all on-plot car parking spaces (in line with local authority standards).

### Summary

The above urban design issues relating to the proposed layout, design, materiality and sustainability of the site should be explored in more detail and further justification should be provided on the

proposed design approach before the application can be recommended for approval.

If you have any queries regarding the information stated above, please do not hesitate to contact me.

ECC Highways Dept  
25.11.2020

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

The Highway Authority will protect the principle use of the highway as a right of free and safe passage of all highway users.

Although the location has a local railway station and is close to some existing bus stops, the overall parking provision for the density of the application is considered to be inadequate for the application as proposed.

The proposal if permitted would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality.

The proposal is therefore contrary to policy DM1 and DM8 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

#### Notes

1. The proposal shows eleven spaces off-street for the new two bedroomed and one bedroomed flats, where the Parking Standards Design and Good Practice September 2009 recommend a minimum of fifteen spaces. This would potentially lead to increased kerbside parking stress.

2. Off road parking spaces when constrained by structures should be 3.4 metres x 5 metres to enable circulation around the vehicle and for the doors to open fully. As far as can be determined from submitted plans all parking spaces are undersized in relation to the recommended standards.

3. The Highway Authority raises concerns over the constrained parking spaces they appear to fail to be provided sufficient manoeuvring or circulatory space for pedestrians accessing the car, the restricted width of the car space is also likely to impede manoeuvring from the space into the access area and turning to leave and join the highway.

4. As far as can be determined from the submitted plans the proposal fails to provide sufficient off street parking spaces with dimensions in accord with current Parking Standards which is likely to lead to vehicles being left parked in the access route or adjacent highway already heavily used by the location of the local Primary School located next door to the site causing conditions of danger, obstruction or congestion contrary to highway safety and Policy DM 1 and 8.

The Highway Authority may consider a revised application which addresses the issues raised above.

Waste Management 02.10.2020	Dedicated bin storage area required to accommodate wheeled bins for both refuse and recycling for 9 apartments.
Building Control and Access Officer 30.09.2020	No documents to comment on, but a Demolition Notice will be required.

### 3. Planning History

19/30226/PREAPP	Proposed demolition of existing dwelling and erection of 9 apartments.	Refused	19.02.2020
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### 4. Relevant Policies / Government Guidance

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
QL6	Urban Regeneration Areas
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
EN11A	Protection of International Sites European Sites and RAMSAR Sites
HG1	Housing Provision
HG3	Residential Development Within Defined Settlements
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
EN6	Biodiversity
COM6	Provision of Recreational Open Space for New Residential Development
COM33	Flood Protection
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development
Tendring District Local Plan 2007	
SPL1	Managing Growth

SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP5	Open Space, Sports & Recreation Facilities
LP3	Housing Density and Standards
LP4	Housing Layout
PP14	Priority Areas for Regeneration
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
CP1	Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

### **Status of the Local Plan**

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) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10<sup>th</sup> December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council is now making arrangements to formally adopt Section 1 of the Local Plan in its modified state and this is expected to be confirmed at the meeting of Full Council on 26<sup>th</sup> January 2021 – at which point will become part of the development plan and will carry full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given 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 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 technically falls below 5 years – but this is only because, until the modified Section 1 Local Plan is formally adopted at the end of January 2021, housing supply has to be calculated against a housing need figure derived through the government's 'standard methodology' – a figure that is significantly higher than the 'objectively assessed housing need' of 550 dwellings per annum in the Section 1 Plan and confirmed by the Inspector in his final report to be sound. Because of this technicality, the NPPF still requires 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.

However, because the housing land supply shortfall is relatively modest when applying the standard method prescribed by the NPPF and significant weight can now be given, in the interim, to the sound policies in the modified Section 1 Plan (including the housing requirement of 550 dwellings per annum), the reality is that there is no housing shortfall and, on adoption of the Section 1 Plan, the Council will be able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years. Therefore, in weighing the benefits of residential development against the harm, the Inspector's confirmation of 550 dwellings per annum as the actual objectively assessed housing need for Tendring is a significant material consideration which substantially tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing – particularly in the consideration of proposals that fall outside of the settlement development boundaries in either the adopted or the emerging Section 2 Local Plan.

## **5. Officer Appraisal (including Site Description and Proposal)**

### Site Description

The application relates to number 17 Standley Road, Walton-on-the-Naze. The existing site comprises a detached dwelling on a triangular plot bordered by flats, a leisure centre and Walton-on-the-Naze Primary School. The opposite side of Standley Road is lined with two and three storey terraced and semi-detached houses. The site is separated from the school by an area of public open space and a pathway through to the leisure centre.

The site is within close walking proximity of the designated town centre of Walton and beach. The site is located within the Walton Settlement Development Boundary, within Flood Zone 3 (with flood defence) and within the defined Urban Regeneration Area for Walton.

### Description of Proposal

The application seeks full planning permission for the erection of a block of 9 apartments (following demolition of the existing dwelling) comprising 6 no. 2 bedroom apartments and 3 no. 1 bedroom apartments as follows;

Ground Floor –

Parking, communal entrance lobby, postal boxes and 9 individual storage/cycle store areas

First Floor –

2 no. 2 bedroom apartments and 1 no. 1 bedroom apartment

Second Floor –

2 no. 2 bedroom apartments and 1 no. 1 bedroom apartment

Third Floor –

2 no. 2 bedroom apartments and 1 no. 1 bedroom apartment

### Assessment

The main considerations in this instance are:

- Principle of Development;
- Flood Risk (and Urban Regeneration Area designation);
- Design and Impact;
- Residential Amenities;
- Access and Parking;
- Trees and Landscaping;
- Financial Contribution - Open Space and Play Space;
- Financial Contribution - Recreational Disturbance; and,
- Representations.

### Principle of Development (including Flood Risk and Regeneration Area designations)

The site is located within the settlement development boundary for Walton in both the saved and emerging local plans. As such, the principle of residential development on the plot is acceptable. Consideration now turns to matters of detail including design/impact, layout, residential amenities, highway safety, flood risk and legal obligations.

### Flood Risk (and Urban Regeneration Area designation)

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 a proposed demolition of existing dwelling and erection of 9 apartments, associated parking and landscaping, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

Paragraph 155 of the National Planning Policy Framework 2019 states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 157 states that Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by (inter alia) applying the Sequential Test. Paragraph 158 further explains that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

Where the sequential test shows that it is not possible for the development to be located in zones with a lower probability of flooding, the exception test should be applied when appropriate. For the exceptional test to be passed, it must be demonstrated that firstly, the development provides wider sustainability benefits to the community that outweigh flood risk and secondly, that a site-specific flood risk assessment demonstrates that the development is appropriately flood resilient and

resistant over its lifetime. The Government's Planning Practice Guidance sets out that the exceptional text is required for 'More Vulnerable Uses' within Flood Zone 3a.

Saved Policy QL3 of the adopted Tendring District Local Plan 2007 supports this approach by stating that the Council will ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, whilst for all proposed sites within Flood Zones 2 and 3, the sequential test must be applied to demonstrate that there are no reasonably available sites in a lower flood risk area.

These sentiments are echoed in draft policy PPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017, which states that all development proposals will be considered against the National Planning Policy Framework's flood risk 'sequential test' to direct development toward sites at the lowest risk of flooding unless they involve development on land specifically allocated for development.

The application is accompanied by a Flood Risk Assessment to which the Environment Agency raise no objection subject to the Sequential and Exception Tests. Also accompanying the application is evidence in support of an assessment against the Sequential and Exception Tests. The Sequential Test area of analysis is based upon Tendring District Council's Strategic Housing Land Availability Assessment documents updated 2019 (SHLAA). A summary of the assessment provided is set out below.

### Sequential Test Evidence

A methodology is presented within the Sequential Test document analysing suitability and availability of alternative sites using four conditions. Sites would need to meet condition 1 to then be reviewed for condition 2 and so on. Failure at any condition deemed the site to fail that test. The four conditions presented are:

- **Condition 1 Site Size - with an allowance of plus or minus 30%**
  - Smaller sites were discounted on the basis that parking / amenity provision would fall short. Larger sites were discounted as they would be better suited to lower density schemes.
- **Condition 2 Flood Zone**
  - Sites within, or partially within Flood Zone 3 were discounted as having the same flood risk than that of the proposed development. No further work has been done on alternative sites within Flood Zone 3, which the NPPG allows for or any further work on sites within a lower flood risk area as these have already been discounted under condition 1.
- **Condition 3 Capacity - with an allowance of plus or minus 25%**
  - The proposals are for between 6-13 units, a density of 78 units per hectare - any sites with lower capacities of a similar size would likely be better suited to a lower density scheme and have therefore been discounted due to the site area.
- **Condition 4 Availability**
  - Any sites that have had planning permission granted (outline or full) within the last 5 years or have planning permission pending were concluded as unavailable.

The statement fails to provide an explanation of why this specific site has been chosen, as required by the NPPG. The NPPG states that sites that have not been allocated in the local plan but have been granted planning permission for a development that is the same or similar to the development proposed should be included in the test. In addition, 'windfall' sites that are not allocated in the local plan and do not have planning permission but that could be available for development should also be included.

Officers consider that the 4 condition methodology applied is too stringent and unreasonable resulting in only 10 sites of the available 108 in the 2019 updated SHLAA being considered and all sites eventually being discounted. No other unallocated or windfall sites are considered. According to the evidence, only 10 sites were extracted from the 108 for further consideration due to a comparable site area in compliance with Condition 1 of the chosen methodology. Therefore, sites

within a lower risk of flooding have been discounted without further assessment simply due to site area. The assessment discounts the majority of sites due to extant permission which is not a requirement of the NPPG.

The Sequential Test does not provide a case for the essential siting of the development in this high risk area nor does it provide adequate information to demonstrate that there are no alternative sites available. Therefore, officers consider that the quantum of development as proposed under this application, either individually or cumulatively, would be possible in areas at lower risk of flooding. The fact that this might not be delivered by the applicant has little bearing on this matter. Thus, officers are not persuaded that the Sequential Test has been passed.

The overriding aim of flooding policy is to direct new development away from areas at highest risk. For the reasons set out above, officers find no essential reason to locate the proposed dwellings in a high flood risk area and thus the Sequential Test is not passed. Given that finding, there is no requirement to apply the Exception Test. The application of Framework policies to direct inappropriate development away from areas with the highest risk of flooding provides a clear reason for refusing the development.

The application site falls within the Walton Seafront and Town Centre Urban Regeneration Area. The boundary for that is the same as that proposed for a Priority Area for Regeneration identified in the emerging LP Policy PP14 as a focus for investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure. From the evidence, areas derive from Priority Areas for Economic Regeneration originally identified in the former Essex and Southend-on-Sea Replacement Structure Plan as pockets of deprivation within the Region. These were defined by a number of criteria including above average unemployment rates, high levels of social deprivation, low skill levels, dependency on declining industries, derelict urban fabric, peripherally and insularity. LP Policy QL6 supports development that reinforces and/or enhances the function, character and appearance of the Urban Regeneration Area and contributes towards regeneration and renewal. The development would contribute only slightly towards these aims and those equivalent in emerging LP Policy PP14. However, the regeneration of this area is not dependent on further dwellings like this in the high risk flood zone. The modest benefits provided by the proposal would not offset the significant harm that would arise from locating the dwellings within Flood Zone 3a, an area with a high probability of flooding. Consequently, the proposal conflicts with the development plan taken as a whole.

It is therefore considered that the proposal has failed the Sequential Test and the benefits of the development do not therefore outweigh the risks of flooding. The proposed residential development is therefore considered to be unacceptable and contrary to the advice contained in the NPPF, NPPG, Policy PPL1 of the emerging Local Plan, and Saved policy QL3 of the 2007 adopted Local Plan.

### Design and Impact

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. Paragraph 127 of the NPPF states that planning decisions should ensure that developments add to the overall quality of the area and are sympathetic to local character and history, including the surrounding built environment. Policy QL9 of the Tendring District Local Plan (2007) and Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that all new development makes a positive contribution to the quality of the local environment and protect and enhance local character and distinctiveness.

In addition, Saved Policy HG14 of the adopted Tendring District Local Plan (2007) states that proposals for new dwellings will be required to retain appropriate open space between the dwellings and the side boundaries of the plot to ensure that new development is appropriate in its setting and does not create a cramped appearance.

The site currently accommodates a modest four bedroom detached dwelling with a south westerly, road frontage orientation, on what is essentially a triangular shaped plot. Although the age and appearance of the dwelling is pleasant; being typical for the character of the area, the site is not within a conservation area and the property is of no historic or architectural merit that would restrict its demolition. Furthermore, the introduction of the block of flats adjacent has resulted in the dwelling appearing somewhat at odds in the immediate street scene on this side of Standley Road with no similar dwellings to either side. Other than the 4 storey block of flats to the east, the rear and side boundary of the site are not enclosed by built form and the spaciousness of the plot currently contributes positively the locality. The openness of the site means that the plot forms a prominent position in the street scene.

The application proposes the erection of a 4 storey, flat roof building with the associated parking and other communal areas at ground floor level. It could be argued that there can no objection to the height of the proposal having regard to the closely associated 4 storey flats to the east. However, the footprint of the building appears contrived and overly large almost filling the plot with a pinch point to the rear boundary and limited triangular areas of amenity space that appear as left-over space which do not compliment the building and may not get used by residents. The rear portion of the site is currently open occupying the private amenity space and parking areas serving the existing dwelling. Similarly, the adjacent flats has a large amenity area to the rear of the building. In contrast, the proposed building extends the full depth of the site appearing out of character and comprising the openness of the side and rear views of the site. The flat roof design actually appears higher than the mono-pitch roof design of the adjacent flats, which in combination with the depth and bulk of the building would appear out of scale and incongruous in the street scene and from public vantage points to the rear. Given the strong architecture of neighbouring buildings such as the school, the proposed design and use of a grey brick finish fails to respond to local character. The proposed western elevation aligns with the western boundary of the site and overlooks the adjacent amenity space. This elevation will be a prominent feature of the building due to the orientation of the road, the gap between neighbouring school and the increase in scale. Currently this elevation is bland and featureless with no brick detailing, interest or variation in fenestration.

### Residential Amenities

Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users. Saved Policy QL10 of the adopted Tendring District Local Plan (2007) that's that permission will only be granted if; buildings and structures are orientated to ensure adequate daylight, outlook and privacy and provision is made for functional needs including private amenity space and accessibility. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives. Furthermore, Saved Policy HG14 of the adopted Tendring District Local Plan (2007) states that proposals for new dwellings will be required to retain appropriate open space between the dwellings and the side boundaries of the plot to safeguard the amenities and aspect of adjoining residents.

Additionally, Saved Policy HG9 sets out the minimum standards for private amenity space. For flats either a minimum of 25 square metres per flat should be provided communally or a minimum of 50 square metres private area for a ground floor flat with a minimum balcony area of 5 square metres for units above.

In this instance, the proposal provides 91 square metres of amenity space within the north eastern corner of the site as well as a large balcony area to each flat. In addition, dedicated cycle/storage bays are provided at ground floor level. Sufficient amenity space is therefore provided to serve the occupants of the proposed flats. However, in terms of functionality, the proposed ground floor plan shows a disconnect between the car park area and the entrance to the building meaning that residents need to go back onto the street to access the building or cut across landscaped areas. Furthermore, the parking spaces provided are too few and undersized, as covered in more detail within the 'Access and Parking' section of the report below. The proposal therefore fails to meet the functional needs of the future occupants of the development.

The separation distance and position of the proposed building, being somewhat angled away from the facing elevation of the flats 'Kings Reach', means that no material loss of daylight to facing

windows will result. The south facing orientation of the site together with the depth and height of the building will result in some loss of afternoon/evening sunlight to the rear amenity space serving the adjacent flats. The layout and depth of the building, although slightly angled away from the adjacent flats, will result in balcony areas and windows serving main living rooms facing toward to the rear private amenity space of Kings Reach resulting in overlooking and loss of privacy. Therefore, the scale, siting and layout of the building will result in an unneighbourly and harmful relationship with the adjacent flats at 'Kings Reach' to the east to the detriment of the amenities of existing residents.

### Access and Parking

The National Planning Policy Framework 2019 (NPPF) at paragraph 127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area. Furthermore, 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 and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Additionally, the current Essex County Council Parking Standards 2009 set out the requirements for residential development. A 1 bedroom dwelling requires 1 parking space and a property of 2 or more bedrooms require 2 parking spaces. 0.25 spaces per dwelling (unallocated) (rounded up to nearest whole number) should be provided for visitors. The preferred vehicle parking bay sizes are set out in paragraph 3.2.1 of the standards stating that each space should be 5.5m x 2.9m. Paragraph 3.2.7 goes on to say that parking areas that are adjacent to solid structures such as a wall or fence should increase the width of these bays by 1m to allow for improved manoeuvrability and entry/exit of people to/from the vehicle. The standards do allow for a minimum bay space of 5m x 2.5m but this bay size should only be used in exceptional circumstances.

The proposal comprises 6 no. 2 bedroom apartments and 3 no. 1 bedroom apartments. Having regard to the standards set out above the development requires a minimum of 15 spaces (6 x 2 spaces and 3 x 1 spaces = 15) together with 3 visitor spaces (0.25 x 9 = 2.25 rounded up to 3) equating to an overall requirement of 17 spaces for the proposed development. Only 11 of the smaller sized bays are provided. The parking is provided in an undercroft arrangement with some spaces constrained by enclosures thus requiring the provision of the large sized bays. There are no exceptional circumstances that warrant the use of the smaller sized bays and therefore all 11 spaces provided are considered undersized. Furthermore, the constrained parking spaces appear to fail to be provided sufficient manoeuvring or circulatory space for pedestrians accessing the car, the restricted width of the car space is also likely to impede manoeuvring from the space into the access area and turning to leave and join the highway.

Whilst it is recognised that the site is located within the settlement boundary with access to a local railway station and is close to some existing bus stops, the overall parking provision for the density of the application is wholly inadequate in terms of both the number of spaces and bay size/manoeuvrability. This would lead to increased kerbside parking stress in an already congested residential street exacerbated by the traffic and movements associate with the adjacent primary school. The proposal would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality.

### Trees and Landscaping

There are no trees or other significant vegetation contained in the main body of the application site.

In order to show the likely extent of new soft landscaping associated with the development of the land the applicant has submitted a plan showing indicative planting intended to soften and enhance the appearance of the development. New planting opportunities should be maximised to soften the

appearance of the proposed development. In the event that re-development of the site is approved, a condition would be attached to secure details of the indicative planting shown on this landscaping plan.

#### Financial Contribution - Open Space and Play Space

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". These sentiments are carried forward within emerging Policy HP5.

In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space.

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.

Therefore, due to the significant lack of play facilities in the area a contribution towards play is justified and relevant to the planning application. The contribution would fund additional facilities to Bathhouse Meadow site.

The financial contribution has not been secured through a completed unilateral undertaking in accordance with above-mentioned policies and therefore forms a reason for refusal.

#### Financial Contribution - Recreational Disturbance

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 contribution is secured by unilateral undertaking.

The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 750 metres from Hamford Water SAC, SPA and Ramsar. New housing development within the Zoi would be likely to increase the number of recreational visitors to Hamford Water; 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 through a completed unilateral undertaking in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. The application is therefore 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.

#### Representations

Frinton and Walton Town Council recommend refusal on the basis that the development is unsympathetic to the street scene.

2 further individual letters of objection have been received. The concerns raised can be summarised as follows (officer response in italics):

- Loss of light.
- Too tall next to existing neighbouring building.
- Design and scale out of keeping.

- Loss of historic property.
- Increase in traffic and congestion.
- Harm to pedestrian safety from increase in traffic.
- Overlooking to school and children.
- Insufficient parking.
- Increase pressure on local services and amenities.

*These issues are all addressed in the main report above under the appropriate sub-headings.*

- Noise, disturbance and danger to children and pedestrians during construction.

*Disruption during construction phases of development cannot form a reason for refusal; these are temporary and can be controlled by the submission and approval of a construction method statement and further controlled by environmental health legislation in relation to noise of a statutory nuisance.*

## Conclusion

For the reasons set out above, the proposed development is considered wholly unacceptable and is therefore recommended for refusal.

## **6. Recommendation**

Refusal - Full

## **7. Reasons for Refusal**

- 1 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 a proposed demolition of existing dwelling and erection of 9 apartments, associated parking and landscaping, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

Paragraph 155 of the National Planning Policy Framework 2019 states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 157 states that Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by (inter alia) applying the Sequential Test. Paragraph 158 further explains that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

Saved Policy QL3 of the adopted Tendring District Local Plan 2007 supports this approach by stating that the Council will ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, whilst for all proposed sites within Flood Zones 2 and 3, the sequential test must be applied to demonstrate that there are no reasonably available sites in a lower flood risk area. These sentiments are echoed in draft policy PPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017, which states that all development proposals will be considered against the National Planning Policy Framework's flood risk 'sequential test' to direct development toward sites at the lowest risk of flooding unless they involve development on land specifically allocated for development.

The application is accompanied by a Flood Risk Assessment and evidence in support of an assessment against the Sequential Test.

The Council considered that that the 4 condition methodology used in the Sequential Test is too stringent and unreasonable resulting in only 10 sites of the available 108 in the 2019 updated SHLAA being considered and all sites eventually being discounted. No other unallocated or windfall sites have been considered. According to the evidence, only 10 sites were extracted from the 108 for further consideration due to a comparable site area in compliance with Condition 1 of the chosen methodology. Therefore, sites within a lower risk of flooding have been discounted without further assessment simply due to site area. The assessment discounts the majority of sites due to extant permission only.

The Sequential Test does not provide a case for the essential siting of the development in this high risk area nor does it provide adequate information to demonstrate that there are no alternative sites available in accordance with the National Planning Policy Guidance for Sequential Tests. Therefore, the quantum of development as proposed under this application, either individually or cumulatively, would be possible in areas at lower risk of flooding. Thus, the Council are not persuaded that the Sequential Test has been passed.

- 2 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. Paragraph 127 of the NPPF states that planning decisions should ensure that developments add to the overall quality of the area and are sympathetic to local character and history, including the surrounding built environment. Policy QL9 of the Tendring District Local Plan (2007) and Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that all new development makes a positive contribution to the quality of the local environment and protect and enhance local character and distinctiveness. In addition, Saved Policy HG14 of the adopted Tendring District Local Plan (2007) states that proposals for new dwellings will be required to retain appropriate open space between the dwellings and the side boundaries of the plot to ensure that new development is appropriate in its setting and does not create a cramped appearance.

Although the dwelling itself is of no architectural or historic merit that warrants its retention, other than the 4 storey block of flats to the east, the rear and side boundaries of the site are not enclosed by built form and the spaciousness of the plot currently contributes positively to the locality.

In this instance, the footprint of the building appears contrived and overly large almost filling the plot with a pinch point to the rear boundary and limited triangular areas of amenity space that appear as left-over space which do not compliment the building and may not get used by residents. The rear portion of the site is currently open occupying the private amenity space and parking areas serving the existing dwelling. Similarly, the adjacent flats has a large amenity area to the rear of the building. In contrast, the proposed building extends the full depth of the site appearing out of character and comprising the openness of the side and rear views of the site. The flat roof design actually appears higher than the mono-pitch roof design of the adjacent flats, which in combination with the depth and bulk of the building would appear out of scale and incongruous in the street scene and from public vantage points to the rear. Given the strong architecture of neighbouring buildings such as the school, the proposed design and use of a grey brick finish fails to respond to local character. The proposed western elevation aligns with the western boundary of the site and overlooks the adjacent amenity space. This elevation will be a prominent feature of the building due to the orientation of the road, the gap between neighbouring school and the increase in scale. Currently this elevation is bland and featureless with no brick detailing, interest or variation in fenestration.

Overall, the scale, height and bulk of the proposal amount to overdevelopment of the site with a detailed design and finish, which fails to protect and enhance local character and distinctiveness. The siting of the development on a prominent plot exacerbates the harm

identified. The development is wholly inappropriate and fails to make a positive contribution to the quality of the local environment, contrary to the aims of the above-mentioned national and local plan policies.

- 3 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users. Saved Policy QL10 of the adopted Tendring District Local Plan (2007) states that permission will only be granted if; buildings and structures are orientated to ensure adequate daylight, outlook and privacy and provision is made for functional needs including private amenity space and accessibility. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives. Furthermore, Saved Policy HG14 of the adopted Tendring District Local Plan (2007) states that proposals for new dwellings will be required to retain appropriate open space between the dwellings and the side boundaries of the plot to safeguard the amenities and aspect of adjoining residents.

The proposed ground floor plan shows a disconnect between the car park area and the entrance to the building meaning that residents need to go back onto the street to access the building or cut across landscaped areas. Furthermore, the parking spaces provided are too few and undersized. The proposal therefore fails to meet the functional needs of the future occupants of the development.

The south facing orientation of the site together with the depth and height of the building will result in some loss of afternoon/evening sunlight to the rear amenity space serving the adjacent flats. The layout and depth of the building, although slightly angled away from the adjacent flats, will result in balcony areas and windows serving main living rooms facing toward to the rear private amenity space of Kings Reach resulting in overlooking and loss of privacy. Therefore, the scale, siting and layout of the building will result in an unneighbourly and harmful relationship with the adjacent flats at 'Kings Reach' to the east to the detriment of the amenities of existing residents.

The proposed development therefore fails to provide a high standard of amenity and functionality for existing and future occupants contrary to the aims of the above-mentioned national and local plan policies.

- 4 The National Planning Policy Framework 2019 (NPPF) at paragraph 127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area. Furthermore, 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 and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Additionally, the current Essex County Council Parking Standards 2009 set out the requirements for residential development. A 1 bedroom dwelling requires 1 parking space and a property of 2 or more bedrooms require 2 parking spaces. 0.25 spaces per dwelling (unallocated) (rounded up to nearest whole number) should be provided for visitors. The preferred vehicle parking bay sizes are set out in paragraph 3.2.1 of the standards stating that each space should be 5.5m x 2.9m. Paragraph 3.2.7 goes on to say that parking areas that are adjacent to solid structures such as a wall or fence should increase the width of these bays by 1m to allow for improved manoeuvrability and entry/exit of people to/from the vehicle. The standards do allow for a minimum bay space of 5m x 2.5m but this bay size should only be used in exceptional circumstances.

Having regard to the above standards, the proposed development of 6 no. 2 bedroom apartments and 3 no. 1 bedroom apartments requires 17 spaces (including visitor spaces).

The parking is provided in an undercroft arrangement with some spaces constrained by enclosures thus requiring the provision of the larger sized bays. Only 11 of the smaller sized bays are provided. There are no exceptional circumstances that warrant the use of the smaller sized bays and therefore all 11 spaces provided are considered undersized. Furthermore, the constrained parking spaces appear to fail to be provided sufficient manoeuvring or circulatory space for pedestrians accessing the car, the restricted width of the car space is also likely to impede manoeuvring from the space into the access area and turning to leave and join the highway.

The overall parking provision for the density of the application is wholly inadequate in terms of both the number of spaces and bay size/manoeuvrability. This would lead to increased kerbside parking stress in an already congested residential street exacerbated by the traffic and movements associate with the adjacent primary school. The proposal would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality.

- 5 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". These sentiments are carried forward within emerging Policy HP5.

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. Therefore, due to the significant lack of play facilities in the area a contribution towards play is justified and relevant to the planning application. The contribution would fund additional facilities to Bathhouse Meadow site.

The financial contribution has not been secured through a completed unilateral undertaking and the development is therefore contrary to the above-mentioned local plan policies.

- 6 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 contribution is secured by unilateral undertaking.

The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zol) being approximately 750 metres from Hamford Water SAC, SPA and Ramsar. New housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water; 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 through a completed unilateral undertaking in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. The application is therefore 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.

## **8. 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 Agent. 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.