

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	DM	27.01.2021
Planning Development Manager authorisation:	TC	28/01/2021
Admin checks / despatch completed	ER	28/01/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	28.01.2021

Application: 19/00948/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr Panayis Panayi

Address: Land off Chartfield Drive Kirby Le Soken

Development: Erection of 5 no. detached dwellings with garaging and access.

1. Town / Parish Council

Frinton and Walton Town Council
26.07.2019

REFUSAL - agricultural land should not be built on and protected for the benefit of the green gap. Would impact on the environment and wildlife.
Too great a bulk and mass, overpowering.
Outside the village envelope.

2. Consultation Responses

ECC Highways Dept
25.07.2019

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

1 The development shall not be occupied until such time as the car parking and turning areas, has been provided in accord with the details shown in Drawing Numbered 6677-A-1104-P1. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

2 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 this 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.

Informative1: 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.

Building Control and
Access Officer
08.07.2019

Turning facilities required for a fire fighting appliance.

Tree & Landscape Officer
09.07.2019

There are no trees or other significant vegetation on the application site.

The application site appears to be agricultural land although it is 'fallow' at the present moment and covered in rank and ruderal vegetation.

The development would if approved result in an extension of Chartfield Drive and contribute to the gradual erosion of the countryside.

If planning permission were likely to be granted then a condition should be attached to secure details of new soft landscaping to enhance and screen the development and to mitigate the harm that would be caused by the encroachment into the countryside. Soft Landscaping, including new trees, should address the need to create a pleasant street scene and be prominent in the public realm. New planting should also aim to soften the edge of the development adjacent to the countryside.

UU Open Spaces
24.07.2019

Response from Public Realm
Open Space & Play

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

Recommendation: Although there is a lack of play facilities in Frinton, Walton & Kirby it is not thought there will be a significant impact on the current facilities.

Housing Services
20.09.2019

I have been asked to comment on the affordable housing requirements for the above application and would comment as follows:

The NPPF published in July 2018 states that affordable housing should be delivered on "major developments". Major developments are defined as sites delivering 10 or more properties or sites that measure greater than 0.5 hectares in area. The site on this application measures 0.74 hectares and therefore the requirement for affordable housing needs to be considered.

The application proposes to deliver 5 x 4 bedroom properties. There are currently 32 households on the housing register seeking a 4 bedroom property in the village of Kirby-le-Soken. The council, as a

landlord, only owns 10 x 4 bedroom houses in the entire district. Households needing a 4 bedroom property face an interminable wait before a property can be offered. In light of this information, the delivery of on-site affordable housing is justified.

The council's emerging local plan requires that 30% of homes on eligible sites be delivered as affordable housing. 30% of 5 properties equates to 1.5 properties (2 rounding up).

The council would like 2 x 4 bedroom houses to be delivered as affordable housing on this site. The council would like the first option to take on the properties. If the council decides not to take on the properties, another registered provider needs to be sought.

3. Planning History

16/01844/OUT	Erection of single dwelling.	Approved	22.12.2016
17/00334/FUL	Construction of single dwelling house, provision of access and change of use of land to domestic curtilage.	Approved	28.04.2017
17/00758/FUL	Erection of 9no. detached dwellings with garaging and access.	Approved	29.06.2017
17/02178/FUL	Application of variation to condition 15 on approval 17/00758/FUL - Amendment to approved drawings.	Approved	13.02.2018
18/00028/DISCON	Discharge of conditions 2 (Materials), 3 (Landscaping), 5 (Fencing), 9 (Construction Method Statement), and 12 (Tree Protection) of planning permission 17/00758/FUL.	Approved	26.01.2018
18/01013/NMA	Amendments of approved application 17/00758/FUL - Addition of obscure glazed first floor window to side elevation on Plots 3, 4 and 5.	Approved	17.07.2018
19/00948/FUL	Erection of 5 no. detached dwellings with garaging and access.	Current	
19/01479/DISCON	Discharge of conditions 6 (turning facilities), 8 (road width), and 14 (illumination) of planning permission 17/02178/FUL.	Approved	22.10.2019
20/00419/DISCON	Discharge of conditions 7 (materials), 8 (landscaping) and 10 (boundary details) for approval 17/00334/FUL.	Approved	14.04.2020

4. Relevant Policies / Government Guidance

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
- HG3 Residential Development Within Defined Settlements
- HG6 Dwelling Size and Type
- TR7 Vehicle Parking at New Development
- HG7 Residential Densities
- TR1A Development Affecting Highways
- EN1 landscape Character
- EN2 Local Green Gaps
- 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
- HG4 Affordable Housing in New Developments

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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- CP1 Sustainable Transport and Accessibility
- PPL6 Strategic Green Gaps
- PPL4 Biodiversity and Geodiversity
- HP5 Open Space, Sports & Recreation Facilities
- PPL3 The Rural Landscape
- LP5 Affordable and Council Housing

Essex County Council Car Parking Standards - Design and Good Practice

Principle of Development

The site lies outside of any Settlement Development Boundary (SDB) 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). Kirby Le Soken and its Settlement Development Boundary (SDB) lie to the immediate north of the site incorporating the newly extended and completed Chartfield Drive, a group of dwellings that was found permissible under permission 17/02178/FUL as the TDLP 2013-33 provided for an extension of the SDB. This settlement is defined within the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) as a Smaller Rural Centre, the lowest and therefore least sustainable rung on the settlement hierarchy. Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focused 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.

Paragraph 7 of the National Planning Policy Framework 2019 (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 explains that achieving sustainable development means that the planning system has three overarching objectives, namely an economic objective, a social objective and an environmental objective. However, Paragraph 9 emphasises that these objectives should be delivered through the

preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. This is supported through Paragraph 11 which states that plans and decisions should apply a presumption in favour of sustainable development and for plan-making this means that plans should positively seek opportunities to meet the development needs of their area. Strategic policies should, as a minimum, provide for objectively assessed needs for housing.

For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay. Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date then permission should be granted. Footnote 7 explains that this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites with the appropriate buffer, as set out in paragraph 73.

However, Paragraph 12 of the NPPF states that presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. Paragraph 47 confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

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 10th 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 has now formally adopted Section 1 part of the development plan which carries 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.

As the supply of deliverable housing sites in the modified Section 1 of the Local Plan is now in the order of 6.5 years this actual objectively assessed housing need for Tendring is a significant material consideration in the determination of planning applications 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.

In this instance, the site lies outside of the settlement development boundary for Kirby Le Soken 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 focused 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.

Saved Policy QL1 of the adopted Local Plan remains broadly consistent with the NPPF objective for achieving sustainable development. This is through a plan-led approach that focuses development to locations which are or can be made sustainable, limiting the need to travel and offering a genuine choice of transport modes. This also includes making effective use of land, particularly that which is previously developed, in meeting the need for homes. Those planned for rural areas are responsive to local circumstances and support local needs, whilst recognising the intrinsic character and beauty of the countryside. Emerging Policy SPL1 of the Publication Draft gain traction due to the same consistency with the NPPF as found in respect of those in the adopted Local Plan.

As set out above, the policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11 c) of the NPPF, thus in accordance with the development plan.

Accounting for the housing land supply situation then, regardless of the proximity of the site in relation to services and amenities, there is no longer a requirement to consider such sites due to their location outside of the defined settlement development boundaries as the planned growth for the District to meet housing need has been established. In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal both on the character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by any benefits. The development is an unnecessary intrusion into the countryside 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 paragraph 11 of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SP1.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is located at the southern extremity of the recently completed Chartfield Drive residential development (17/00758/FUL) and abuts the extended SDB. It comprises open agricultural land that has been in use over recent years as verified by desktop aerial surveys. Its area is ca. 0.7418 hectares. The site area is part of a wider Strategic Green Gap as defined in the Draft Tendring District Plan ... *“areas of locally important strategic open land that protect the countryside between urban areas and safeguard the separate identity, character and openness between settlements.”* The site is therefore an important break and limit to built development between the countryside and the village. Chartfield Drive itself comprises wholly residential

development including a mixture of bungalows, chalet style properties and full two-storey houses. All the properties are detached and are served by off-street parking. Aside from the 17/00758/FUL permission several of the properties have been constructed over recent years on a plot by plot basis. The newest dwellings approved and completed following the above listed 2017 permission are large, prominent and comprise two distinct design types with the exception of a single chalet type design to the north side of that plot. The layout follows the extension of the Highway as the newer dwellings sit to either side on large plots. The case officer at the time considered the design approach to be a logical extension of the existing settlement within its boundaries as established by the extended SDB as reflected in the Draft Tending District Plan.

The site is not in a conservation area nor does it affect the settling of listed structures. Public Rights of Way Footpath 25 exist in the field/green gap to the west/south of the site and the site would highly visible from the path.

Description of Proposal

The application seeks full planning permission for the erection of 5 no. dwellings with garaging and access taken via an extension southward of Chartfield Drive.

The proposed dwellings comprise 5 no. 4 bedroom detached dwellings with 2 house types/designs (2 x house type A and 3 x house type B).

Assessment

Design Layout Appearance

The design of the dwellings taken in isolation is similar to that already approved at the abutting site so officers maintain no in principle objection to similar designs. They are large 4 bed, two storey dwellings where house type A is characterised by a dominant dual pitched and gabled roof with two subordinate two storey projections to the rear again capped with dual pitched and gabled roof forms. This type includes bay windows at ground floor level to the front elevation. Type B is larger with two strong gabled sitting perpendicular to the Highway separated by a subordinate central roof element running parallel to the roadside. These roof forms are again dual pitched. To the rear is a flat roof central element capped by a lantern. All dwellings include a garage sited back from the roadside toward the centre of the respective plots. Gardens are generous in size and details are inspired by traditional features including sliding sash windows and lintels.

In terms of layout the dwellings would sit on similar sized plots to those already found to be acceptable at Chartfield Drive. Officers do however consider that the proposal represents an unjustified intrusion into the countryside/green gap which would represent a significant harm to the character and appearance of the clearly defined countryside. The dwellings be especially visible from PRoW path 25 to the southwest and represent the loss of views looking eastward where pedestrians would see new dwellings instead of an unspoilt view across an existing agricultural field. As such, the proposal fails entirely to integrate itself into its surroundings and would therefore be contrary to policies QL9 which requires high quality considered design in its setting where policies EN1 and EN9 which *inter alia* require the preservation of the Green Gap and the protection of the landscape's character.

Occupant and Neighbour Amenity

The development retains sufficient spacing between the properties to the north in Chartfield Drive and between the proposed dwellings here to ensure loss of amenity concerns do not arise conforming with the recommendations in the Essex Design Guide. Overlooking of the main private areas the new dwellings would not occur to an unacceptable degree due to the presence of the hipped roof on the garages obscuring views from upstairs windows. Regardless, a certain degree of overlooking is inevitable and acceptable where houses are close together in a village setting. In terms of private amenity space the new gardens meet the standards outlined in Policy HG9 and would provide residents with acceptable garden areas. Interior space standards exceed the DCLG's Technical Space Standards and again lead to no objections. As such there are no concerns in respect of loss of outlook, light or privacy here.

Highways

No objections are maintained by Highways. Were the proposal acceptable in principle standard conditions would have been applied as recommended by the Highway Officer.

Trees/Landscaping

As the arboricultural officer notes there are no trees or other significant vegetation on the application site as it is in constant agricultural use. The unjustified encroachment into the countryside is noted. If permission were to be granted a soft landscaping condition would be attached to the decision notice to attempt to mitigate the harm caused by softening the edge of the development adjacent to the countryside.

Environmental Health

The EH team does not maintain an objection however they do note that turning area is required for facilities required for a fire fighting appliance. Were the proposal acceptable in principle the case officer would have reconsulted the Highways to find a solution however as the principle of development does not stand no further solutions were sought in this regard.

RAMS

Habitats Regulation Assessment

Under the Habitats Directive a development which is likely to have an effect or an adverse effect (alone or in combination) on a European Designated site must provide mitigation or otherwise must satisfy the tests 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. This residential development lies within the Zone of Influence of the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites in particular the Hamford Water RAMSAR and SPA site mitigation measures will need to be in place prior to occupation. A proportionate financial contribution has not been secured in accordance with 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 TDLP 2007, Policy PPL4 of the DTLP 2013-33 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Affordable Housing

Policy HG4 in the adopted Local Plan housing development for 15 or more dwellings/ over 0.5 hectares to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on sites of 11 or more homes to be made available for affordable or Council Housing. 30% of 5 properties equates to 1.5 properties (2 rounding up). The council would prefer 2 x 4 bedroom houses to be delivered as affordable housing on this site. The council would like the first option to take on the properties. If the council decides not to take on the properties, another registered provider needs to be sought.

The Council considers that the above policies are applicable and therefore there is a need to provide for affordable housing through a s106 legal agreement. A completed Section 106 obligation to secure this affordable housing has not been provided prior to the application determination date nor has one been sought since the principle of development has not been established. The application is therefore contrary to the above policies relating affordable housing provision.

Representations and Objections

Following neighbour consultation 31 resident objections have been received. The proposal was also called in by the Member representing the district however as the proposal is recommended for refusal it has not been presented to Committee. The objections are summarised:

- Loss of/erosion of the green gap;
- Loss of agricultural land;
- Ecological impact;

- Presumption in favour of sustainable development not applicable;
- Village does not have facilities for more development;
- Overdevelopment;
- Highway congestion;
- Would set an undesirable precedent for development into the Green Gap;
- Houses are too large and inappropriate relative to development in the village;
- Housing provided would be unaffordable;
- Disruption to residents during previous and proposed construction works;
- The Appropriate Assessment is incorrect;
- Previous application was granted because it “tidied up” the village boundary where this is an encroachment into the countryside beyond the boundary.

6. Recommendation

Refuse.

7. Reasons for Refusal

1. 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.

Saved Policy QL1 of the adopted Local Plan remains broadly consistent with the NPPF objective for achieving sustainable development. This is through a plan-led approach that focuses development to locations which are or can be made sustainable, limiting the need to travel and offering a genuine choice of transport modes. This also includes making effective use of land, particularly that which is previously developed, in meeting the need for homes. Those planned for rural areas are responsive to local circumstances and support local needs, whilst recognising the intrinsic character and beauty of the countryside. Emerging Policy SPL1 of the Publication Draft gain traction due to the same consistency with the Framework as found in respect of those in the adopted Local Plan.

As set out above, the policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11 c) of the NPPF, thus in accordance with the development plan. The application 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).

Regardless of the proximity of the site in relation to services and amenities, there is no longer a requirement to consider such sites due to their location outside of the defined settlement development boundaries. In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal both on the character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by any benefits. The development is unnecessary, would be entirely car reliant for occupants to access services and would represent a completely unjustified intrusion into the countryside, 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 paragraph 11 of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SP1.

2. The proposed development is located within an area designated as a 'Local Green Gap' within the Tendring District Local Plan 2007 and as a 'Strategic Green Gap' in the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. Policy EN2 of the

adopted Tendring District Local Plan 2007 Local Plan states Local Green Gaps will be kept open, and essentially free of development in order to prevent coalescence of settlements, and to protect their rural setting. It goes on to say that minor development proposals may be permitted if they do no harm, individually or collectively, to the purposes of a Local Green Gap or to its open character. This is not the case in this instance as the development would represent a significant erosion into agricultural land in the Green Gap abutting the Settlement Development Boundary without any justification or benefits thereby setting an undesirable precedent for the plan led approach. Furthermore, paragraphs 6.9 and 6.10 of adopted Policy preamble expand on the purposes of the Local Green Gaps. In particular one of the purposes is to maintain separation between urban areas and free-standing smaller settlements that surround them and by conserving the countryside between residential settlements to preserve the open character of these important breaks between settlements. Draft Policy PPL6 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 echo the aims of the saved policy stating that the council will not permit any development which would result in the joining of settlements or neighbourhoods, or which would erode their separate identities by virtue of their close proximity.

3. 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. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Hamford Water Ramsar and SPA site, mitigation measures will need to be in place 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.

4. Policy HG4 in the adopted Local Plan housing development for 15 or more dwellings/over 0.5 hectares (such as this) to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on sites of 11 or more homes to be made available for affordable or Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement. A completed Section 106 obligation to secure this affordable housing has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

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.

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