

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	03/03/2021
Planning Development Manager authorisation:	TF	03/03/2021
Admin checks / despatch completed	DB	04.03.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	04.03.2021

**Application:** 21/00283/NMA **Town / Parish:** Frinton & Walton Town Council

**Applicant:** Chris Watson - Partner Construction Ltd

**Address:** Land of Kirby Road Walton On The Naze

**Development:** Non-Material Amendment to Planning Permission ref: 19/01116/FUL for proposed extension to domestic garden areas of Plots 1-16, 33 and 43 in addition to several green spaces along the western and northern site boundaries and to substitute approved site location plan and site layout plan with revised versions to reflect alterations to boundaries

### 1. Town / Parish Council

Frinton & Walton Town Council      no comments received

### 2. Consultation Responses

n/a

### 3. Planning History

19/01116/FUL	Proposed 53no. dwellings and associated landscaping, roads, parking and drainage works.	Approved	21.09.2020
21/00170/DISCON	Discharge of conditions 3 (hard and soft landscaping), 5 (refuse facilities), 13 (phasing plan and programme), 14 (materials), 16 (boundary walls and fences), 23 (cycle parking) and 27 (construction method statement) of planning application 19/01116/FUL.	Current	
21/00256/DISCON	Discharge of Conditions 6 (Surface Water Drainage), 7 (Minimising Off-Site Flooding), 10 (Archaeological WSI), 18 (Highway Drawings), 21 (Surface Water) and 29 (Foul Water Drainage) as outlined in Planning Permission ref: 19/01116/FUL (Proposed 53no. dwellings and associated	Current	

landscaping, roads, parking and drainage works)

21/00283/NMA

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Current

#### **4. Relevant Policies / Government Guidance**

n/a

##### **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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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. In this latter regard, as of 26<sup>th</sup> January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

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 has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26<sup>th</sup> January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have 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.

With the adoption of the modified Section 1 of the emerging Local Plan, the Councils 'objectively assessed housing need' of 550 dwellings per annum has been found 'sound' and there is no housing shortfall. The Council is able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years.

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

From 1st October 2009 Section 96A of the Town and Country Planning Act came into force allowing a Local Planning Authority, on application, to make a change to any planning permission if it is satisfied that the amendment proposed is non-material.

The key test as to the acceptability of an application for a non-material change is whether the change is material to any development plan policy. If the answer is 'no', three further tests should be applied:

1. Is the proposed change significant in terms of its scale (magnitude, degree etc.), in relation to the original approval?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
3. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?

### Appraisal

In this instance the application seeks a non-material amendment to substitute the approved site location plan and site layout plan with revised versions which reflects minor alterations to the western and northern site boundaries. This is due to the Title Plan which was secured as part of the original planning application (ref: 19/01116/FUL) containing minor discrepancies when compared to the topographical survey. Therefore, the western and northern boundaries of the site has been incorrectly reflected on the submitted plans of application 19/01116/FUL. The site area remains at 1.78 hectares, however the previously submitted plans do not reflect this.

The additional land would not result in additional dwellings, it will simply lead to an extension of the rear gardens of Plots 1-16, 33 and 43 as well as an extension to an incidental few green spaces which lie along the sites western and northern boundaries. There will be no alterations to dwelling layouts or types, vehicle parking arrangements or driveways.

Taking into consideration the above the changes proposed to planning permission 19/01116/FUL, the revised scheme will not result in a significant change to the overall development. On this basis, the application complies with national and local planning policies.

### Conclusion

In this instance it is considered the amendments being sought are minor and are therefore acceptable as a non-material amendment to the approved plans attached to 19/01116/FUL

**6. Recommendation**

Approval

**7. Conditions**

1 The development hereby permitted shall be carried out in accordance with the following approved plans:

- 40974/025A
- 40974/020K

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

**8. Informatives**

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