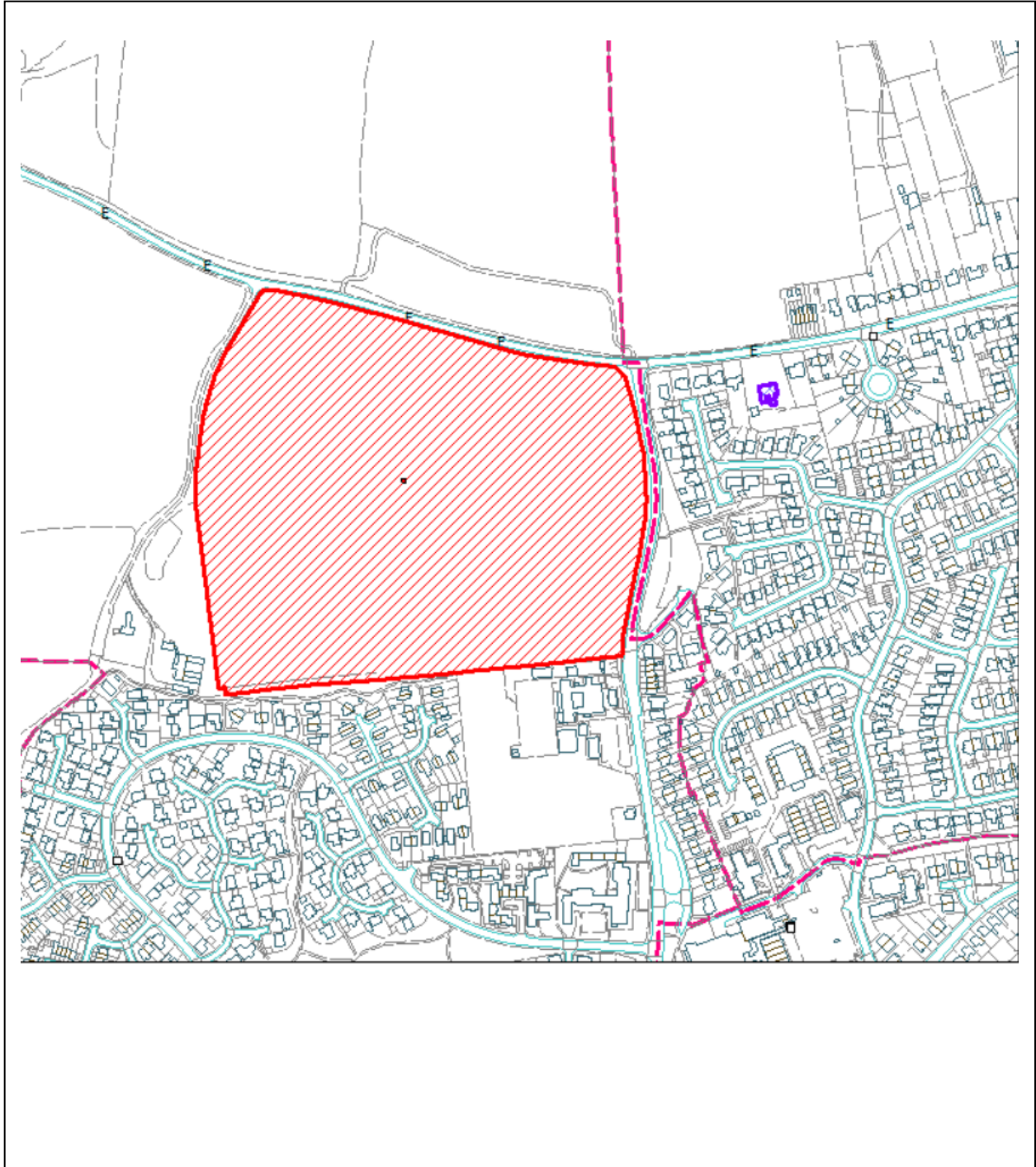


PLANNING COMMITTEE

7th December 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A. **PLANNING APPLICATION – 20/00307/DETAIL – TURPINS FARM ELM TREE AVENUE
KIRBY LE SOKEN ESSEX CO13 0DA**



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Application: 20/00307/DETAIL

Town / Parish: Frinton & Walton Town Council

Applicant: The Burghes Estate

Address: Turpins Farm Elm Tree Avenue Kirby Le Soken Essex CO13 0DA

Development: Reserved matters for outline approval 16/00031/OUT including appearance, landscaping, layout and scale.

1. Executive Summary

- 1.1. This application is referred to Planning Committee at the request of the previous Planning Committee who when the outline consent was given resolution to granted requested that all reserved matters applications are determined by Planning Committee. Cllr Turner has also requested that the application be 'called in' to Planning Committee.
- 1.2. The current application seeks approval of the reserved matters relating to outline planning permission 16/00031/OUT which granted planning permission for the erection of up to 210 dwellings with access from Elm Tree Avenue, including green infrastructure, children's play areas, school drop off and parking facility and other related infrastructure. This application includes details of appearance, landscaping, layout and scale which were not included as part of the outline. Details of the access have been approved as part of the outline consent.
- 1.3. As established through the granting of outline application 16/00031/OUT the principle of residential development for up to 210 dwellings on this site is acceptable.
- 1.4. The detailed design, layout, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety.
- 1.5. The application is therefore recommended for approval subject to a legal agreement to secure the necessary financial contribution towards RAMS.

Recommendation:

That the Head of Planning be authorised to grant planning permission for the development subject to:-

Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):

- Financial Contribution towards RAMS

Subject to the conditions stated in section 8.2

That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL12	Planning Obligations
HG3	Residential Development Within Defined Settlements
HG3A	Mixed Communities
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM2	Community Safety
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM23	General Pollution
COM29	Utilities
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN2	Local Green Gaps
EN4	Protection of the Best and Most Versatile Agricultural Land
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN11B	Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites

- EN12 Design and Access Statements
- EN13 Sustainable Drainage Systems
- EN29 Archaeology
- TR1A Development Affecting Highways
- TR4 Safeguarding and Improving Public Rights of Way
- TR5 Provision for Cycling
- TR6 Provision for Public Transport Use
- TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

Relevant Section 1 Policies (adopted)

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP4 Meeting Housing Needs
- SP6 Infrastructure and Connectivity
- SP7 Place Shaping Principles

Relevant Section 2 Policies (emerging)

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP1 Improving Health and Wellbeing
- HP2 Community Facilities
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL1 Development and Flood Risk

- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, drainage and sewage
- PPL10 Renewable Energy Generation
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

- 2.1 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.2 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.3 Paragraph 48 of the Framework 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 the policies of the Framework. In this regard 'Proposed Modifications' to the emerging Section 2 of the 2013-33 Local Plan, which contains more specific policies and proposals for Tendring, has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16th July 2021. The consultation closed at 5pm on 31st August 2021 and adoption is expected later this year. Section 2 will then join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.
- 2.4 In relation to housing supply:
- 2.5 The Framework requires Councils 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, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is

not possible, or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, the 'tilted balance' at paragraph 11 d) ii) of the Framework in engaged. This requires applications for housing development be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

2.6 Following the adoption of Section 1 of the 2013-33 Local Plan and the Council's 'Objectively Assessed housing Need' of 550 dwellings per annum there is no housing shortfall. The Council is able to report a comfortable surplus of housing land supply over the 5 year requirement. The 'tilted balance' at paragraph 11 d) ii) of the Framework does not therefore apply to applications for housing.

3. **Relevant Planning History**

16/00031/OUT	The erection of up to 210 dwellings with access from Elm Tree Avenue, including green infrastructure, children's play areas, school drop off and parking facility and other related infrastructure.	Approved	01.03.2017
21/01667/VOC	Variation of condition 16 of application 16/00031/OUT to change the form of junction specified in the condition from a priority junction with right turn lane to a simple priority junction. And to re-word the Condition to specify footway provision and dropped kerb/tactile crossing points on Walton Road and Elm Tree Avenue in accordance with an amended drawing.	Approved	24.11.2021

4. **Consultations**

ECC Highways Dept
08.10.2021

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.

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

Prior to the occupation of any of the proposed development the internal road site access and footway

layout shall be provided in principle and accord with Drawing Numbers:

- TW024-PL-02 E Amended development layout
- TW024-PL-03 A Amended detailed layout
- TW024-PL-08 A Amended parking layout
- TW027-GR-01 00 Amended sg1 garages - proposed floor plan and elevations.
- TW027-GR-02 00 Amended sg2 garages - proposed floor plan and elevations.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1

Prior to occupation of any phase of the development a 1.5 metre x 1.5 metre clear visibility, as measured from and along the boundary, shall be provided on both sides of the vehicular accesses. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

Prior to the commencement of any phase of the development, details of the estate roads and footways (including layout, levels, gradients, surfacing, traffic calming and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 & 6.

Any proposed boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

The development of any phase shall not be occupied until such time as a car parking and turning areas has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning 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 & 8.

Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres and each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

Cycle parking shall be provided for those properties without a garage in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: Prior to occupation, the development each pedestrian crossing point shall be constructed with a drop kerb and tactile paving on both sides of the road in accordance with the Essex Design Guide.

2: General note: areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.

3: The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

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

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

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

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

TDC Tree & Landscape Officer
25.06.2021

In terms of the level of detail provided and shown on the soft landscaping plans the information is sufficient to enable the reserved matter relating to soft landscaping as required by planning permission 16/00031/OUT, to be discharged.

With regard to the future use and accessibility of the open space associated with this development and the existing open space and pedestrian path/walkway on the existing development to the south; 'Edenside' it appears that an opportunity will be missed if new links are not created to formally link the current development with the existing adjacent development.

If one or two new links were created from the proposed open space on the southern boundary of this development with the existing 'Edenside' walkway then not only would the public's recreational opportunities increase but there would be the opportunity to move freely between the developments which may reduce vehicular movements to nearby shops and schools.

5. **Representations**

5.1. Frinton and Walton Town Council object to the application for the following reasons:

- It is an obscene application on a beautiful site
- Gross overdevelopment
- Lacks imagination and quality of design

5.2. 3 neutral comments have been received which raise the following points:

- Taylor Wimpey must guarantee that the infrastructure will be put in place to support the new properties
- All trees and hedgerows must be kept in place and reinforced in some parts, to maintain privacy and to reduce noise to neighbouring properties.
- An abundance of wildlife live in the trees and hedgerows and they must be given protection.
- The track entrance to Walton Road is on a blind corner and would become a death trap with people, especially children trying to cross the road at that point.
- A 30mph speed restriction needs to be put in place along Walton Road to increase safety at the Elm Tree Road junction.
- A restriction must be put on the deeds for the houses that back onto the track on the western edge. No gates must be allowed. This will stop people using the track as an access point.
- The four proposed houses in the south west corner of the site should be turned round so that the windows do not overlook Turpin Barn and Turpins Farm Cottage.
- A new tree survey and newt survey need to be done as they are both out of date now.
- The parking allocated for the school is positive in principle but how will these spaces not be used by the residents of the estate? How will the spaces be distinguished? Does there need to be more spaces available to accommodate both sets of users? The road is a very busy road currently and access via Elm Tree Avenue seems likely to cause further congestion. Can access via another road be considered?
- Delighted to confirm that earlier objections concerning the hedgerow on the southern border has been addressed.
- The development would have minimal impact on existing residents as long as during the construction phase working hours are constrained to normal working hours and the construction traffic is managed intelligently.

5.3. 39 letters of objection have been received which raise the following concerns regarding the proposal:

- Lack of infrastructure – doctors, dentists and school places.
- Overlooking to neighbouring residential properties
- Will cause over populating of the area
- Overdevelopment of the site
- Proposal adversely impacts upon the adjacent green gap between, Frinton, Walton and Kirby Le Soken.
- Spacing between individual dwellings must reflect the primacy of this sensitive site.
- Increase in traffic on the local road network
- No new dwellings are needed with all the other local development taking place.
- Loss of prime agricultural land
- Will cause greatly increased traffic trying to pass through the junction at the entrance to Kirby Le Soken
- Allowing limited parking for school pick up on this proposed development will be inadequate for the amount of increased volume of traffic.
- Negative impact on the environment, through demolition of green space, CO2 emissions of building and increased air pollution due to additional traffic.
- The sewerage system is unable to cope with additional housing.
- The flooding issues in the area will be increased due to additional surface water run off
- There are no job opportunities in the towns around.
- To have the entrance to a large housing estate next to the school is dangerous
- Loss of wildlife and habitat
- No bungalows are proposed
- Insufficient parking
- Roads are unsuitable for large construction vehicles, particularly at Kirby Le Soken

- The density is still too great
- Gardens are small and do not allow for mixed uses.
- The parking for some houses is tandem rather than side by side which is likely to cause problems for the purchasers and lead to on road parking
- The houses should be built to incorporate the latest green technology
- Poor public transport infrastructure

6. Assessment

Site Context

- 6.1. The application site comprises a square 11.7 hectare parcel of greenfield agricultural land between the northern edge of Frinton-on-Sea and the rural settlement of Kirby-le-Soken. The site lies south of Walton Road beyond which are the coastal slopes overlooking Hamford Water with views across to Harwich and Felixstowe. The site lies west of Elm Tree Avenue opposite existing residential development and is located a relatively short distance from the Triangle Shopping Centre. The site lies east of Turpins Farm House and its access track, immediately north of Hamford Primary School and the existing residential estate at Edenside and its associated network of green paths.
- 6.2. The topography of the site slopes gently downwards from the existing housing estate to Walton Road and the edge of the steeper coastal slopes. The northern boundary of the site is formed by a strong hedgerow with a lower hedgerow containing a number of mature trees along the eastern boundary along Elm Tree Avenue. A greater number of mature trees are found along the sites western boundary along Turpins Farm House and within the green corridor along the north of the Edenside estate.
- 6.3. The predominant style of property on the adjoining housing estate is of mixed size and type in typical brick-built 1980s/1990s style with some care home/institutional use buildings interspersed with well-maintained and attractive open spaces, landscaping and green links. Development to the east on the opposite side of Elm Tree Avenue contains a mix of inter-war and post-war detached and semi-detached properties, Victorian Farm Cottages and more modern estate development backing onto an attractive area of incidental open space and landscaping.

Planning History

- 6.4. Outline planning permission was granted in March 2017 under reference 16/00031/OUT for the erection of up to 210 dwellings with access from Elm Tree Avenue, including green infrastructure, children's play areas, school drop off and parking facility and other related infrastructure. This application included details of access, all other matters were reserved for future consideration.
- 6.5. More recently an application (21/01667/VOC) to vary condition 16 on the above decision notice was granted, which altered the proposed access from a priority junction with right turn lane to a simple priority junction.

Proposal

- 6.6. The current application seeks approval of the reserved matters relating to outline planning permission 16/00031/OUT, which granted approval to the erection of up to 210 dwellings with access from Elm Tree Avenue, including green infrastructure, children's play areas, school drop off and parking facility and other related infrastructure. This application includes details of appearance, landscaping, layout and scale which were not included as part of the outline. Details of the access have been approved as part of the outline consent and as recently varied through application ref. 21/01667/VOC.

- 6.7. The proposal seeks planning permission for 210 dwellings; 5 x 5 bedroomed dwelling (2.4%); 71 x 4 bedroomed dwellings (33.8%); 91 x 3 bedroomed dwelling (43.3%) and 43 x 2 bedroomed dwellings (20.5%). All of the proposed dwellings are two storey in height. Out of the 210 dwellings proposed 18 will be affordable dwellings which will be gifted to the Council.
- 6.8. There are two main areas of public open space proposed; the main one being to the north of the site and the other is proposed in the south-eastern corner of the site. Overall, a total of 3 play areas are proposed including a LEAP.
- 6.9. In the south east corner of the site a 30 space car park is provided as a school drop off and parking facility.

Principle of Development

- 6.10. The principle of development has been established by the granting of outline planning permission for up to 210 dwellings with access from Elm Tree Avenue, including green infrastructure, children's play areas, school drop off and parking facility and other related infrastructure under 16/00031/OUT.
- 6.11. Condition No. 4 of decision notice 16/00031/OUT states that 'the reserved matters shall be in general conformity with the revised Illustrative Concept Plan Drawing No. UK15044-001-Rev. B'. This drawing shows an area of open space to the northern part of the site; access from Elm Tree Avenue and with a pedestrian/cycle and emergency access onto Walton Road and a 30 space car park for school pick-up and drop-off in the south eastern corner of the site. Furthermore, Condition 6 of 16/00031/OUT states that 'the maximum number of dwellings to be contained in the development shall be up to (but no more than) 210 dwellings'. This application seeks reserved matter consent for 210 dwellings.
- 6.12. The proposed plan complies with the above conditions; therefore there can be no 'in principle' objection to the proposed development.

Appearance

- 6.13. All of the proposed dwellings address the street, to create an active street frontage. There are some dwellings which also have side elevations that face onto the street; these elevations are either set back from the street or in less prominent locations within the development and are therefore considered to be acceptable and not result in any adverse impact.
- 6.14. In terms of materials, a mix of slate and plain clay roof tiles and a mixture of red brick render and weatherboarding are proposed. No specific details of these materials have been provided at this stage; however, the use of acceptable materials can be secured by condition. The proposed mix will ensure variety and visual interest across the development.
- 6.15. The proposed dwellings are all two storey in height and are of a fairly traditional design with appropriate detailing; it is considered that they would not be out of character with the surrounding area.
- 6.16. It is, therefore considered that the detailed design and appearance of the proposed dwellings is acceptable.

Layout

- 6.17. Condition No. 4 of the outline consent requires the reserved matters application to be in general conformity with the revised Illustrative Concept Plan Drawing No. UK15044-001-Rev. B' and Condition No. 6 requires the maximum number of dwellings to be no more than 210. The proposed development is in general conformity with this plan and therefore meets this condition. At outline stage, it was considered that development in general conformity to this plan is acceptable in principle, subject to detailed considerations.
- 6.18. Each of the proposed dwellings, have their own private amenity space. Policy HG9 of the Saved Plan requires 50 sq. m for 1 bed dwellings, 75 sq. m for 2 bed dwellings and 100 sq. m for dwellings with 3 or more beds. Out of the 210 dwellings proposed two of the proposed dwellings do not have garden sizes that meet the above standards. One is Plot 24, which is a 3 bedroom dwelling which is provided with a 93 sq. m garden where the requirement is 100 sq. m. The second is Plot 95, which is a 2 bedroom dwelling which is provided with 74 sq. m where the requirement is for 75 sq. m. Officers consider that such a shortfall in private amenity space, especially given the amount of open space provided would not be sufficient to warrant a reason for refusal of this application.
- 6.19. Parking is provided either to the front or sides of the dwellings, they are situated in small clusters, in appropriate locations throughout the site and therefore do not dominate the proposed development.
- 6.20. In conclusion, there is no objection to the layout of the proposed development.

Scale

- 6.21. All of the proposed dwellings are two storey in height with single storey garages, where provided. Given the character of the surrounding area it is considered that the scale of development proposed is acceptable.

Highway Safety/Parking

- 6.22. Concerns have been raised regarding the impact of increase traffic, especially so close to a primary school. Details of the access and principle of development have already been established through the granting of the outline consent, so it is not possible to consider these issues at this stage.
- 6.23. Under consideration as part of this application is the detailed layout, therefore the internal road layout and parking arrangements. Essex County Council Highways have been consulted on the application and raise no objections subject to the following conditions:
- Development to be in accordance with the submitted plans
 - To ensure adequate visibility splays are provided and maintained.
 - To require further details of the layout, levels, gradients, surfacing, traffic calming and means of surface water drainage.
 - To ensure any proposed boundary planting is a minimum of 1 metre back from the highway boundary and any visibility splay.
 - To ensure the provision of car parking and turning areas prior to first occupation.
 - Size of parking spaces
 - Provision of cycle parking for those properties without a garage
- All of the above conditions are recommended to be imposed, with the exception of the condition relating to sizes of car parking spaces as this is already imposed on the outline consent.
- 6.24. With regard to the school drop off, pick up parking, a condition on the outline consent requires it to be provided at the developer's expense prior to first occupation of

any dwelling. Therefore, there is certainty that this provision will be provided. However, concern has been raised that this may be used by residents instead. In relation to parking provision the Parking Standards: Design and Good Practice document states that for dwellings with 2 or more bedrooms 2 parking spaces shall be provided and a visitor parking space is required per 4 dwellings. All of the proposed dwellings have at least 2 car parking spaces with the larger dwellings having 2 spaces plus a single or double garage. 52 visitor parking spaces are also proposed throughout the site, which meets the requirements. Therefore, as parking provision is in excess of what is required, it is therefore considered that sufficient parking is provided without relying on the school drop off/pick up parking as extra parking.

Landscaping/Biodiversity and Ecology

- 6.25. A number of the letters of objection raise concern regarding loss of hedgerow, wildlife and habitat. This was an issue that was considered at outline stage when a Phase 1 Extended Habitat Survey was submitted and the impact was considered acceptable. It is noted that a Condition was imposed on the original consent which requires an Ecological Mitigation Scheme and Management/Enhancement Plan to be submitted, this requirement still applies.
- 6.26. The Landscaping Plans show that the existing vegetation around the boundaries of the site will be maintained, with other forms of landscaping throughout the site. The Council's Landscape Officer considered that the level of detail provide is acceptable. The only comments raised are that of future accessibility to the existing development to the south, this has been raised with the agent but is not possible due to landownership issues.
- 6.27. 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.
- 6.28. The application site lies within the Zone of Influence (Zol) for Hamford Water Ramsar and SAC, with the site being located around 0.6 km from the Ramsar and SAC. New housing development within the Zol would be likely to increase the number of recreational visitors at these sites 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.
- 6.29. A proportionate financial contribution of £127.30 per dwelling would need to be secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirement, together with the provision of Suitable Accessible Natural Green Space (SANGS), which is proposed. Natural England have been consulted, but no response has been received at the time of writing this report. An update will be provided at Planning Committee.

Impact on Residential Amenity

- 6.30. To the east of the site on the opposite side of Elm Tree Avenue are the properties of Ashes Close. There will be some overlooking towards the rear of these properties by 5 of the proposed dwellings, however, given the distance of separation, intervening vegetation and the fact that they are on opposite sides of Elm Tree Avenue, it is not considered that any overlooking would be significant.

- 6.31. To the south of the site lies Hamford Primary Academy and residential properties in Edenside and Honywood Way. Along this boundary, the proposed hedgerow will be retained and there is sufficient distance between the existing and proposed dwellings for there not to be any significant adverse impact on neighbours' amenities.
- 6.32. Towards the south-west corner of the site is Turpins Barn and Turpins Farm Cottage, the existing vegetation along this boundary will be retained, which will provide some screening. However, there will be some increase in overlooking, although given that the proposed dwellings are at least 15 metres from the boundary it is not considered that this will be sufficient to warrant a reason for refusal.
- 6.33. It is accepted that there will be some noise and disturbance to neighbouring residents during the construction phase, however, there is a condition on the outline consent that requires a Construction Method Statement to be submitted and adhered to.

S106 of the Town and Country Planning Act 1990

- 6.34. A legal agreement was secured at outline stage requiring:
- A financial contribution towards Early Years and Childcare, Primary Education and Secondary Education
 - Affordable Housing
 - Provision of Open Space and Car Park
 - A financial contribution towards Healthcare
- This legal agreement and all conditions on the outline consent will still apply.

Accessibility and Adaptability

- 6.35 Modified Policy LP3 of the Emerging Plan which is currently out to public consultation states that 'on housing developments of 10 or more dwellings, 10% of market housing should be to Building Regulations Part M4(2) 'adaptable and accessible' standard. For affordable homes, 10% should be to Building Regulations Part M4(2) and 5% should be to Part M4(3) 'wheelchair-user' standards'.
- 6.36 All properties meet Nationally Described Space Standards, and M4(2) and M4(3) properties are provided, in line with the policy expectation.

Renewable Energy Provision

- 6.37 As part of the outline approval Condition 28 required each dwelling to be fitted with super-fast broadband which will support flexible and sustainable working patterns. The original outline approval did not include a requirement for an electric charging point for each dwelling; however, a condition is included in the recommendation to ensure this infrastructure is delivered.

More generally, renewable energy provision is addressed in emerging policies SPL3 Sustainable Design, PPL5 Water conservation, drainage and sewage and most critically, PPL10 Renewable Energy Generation. These policies will make it local policy to provide energy saving measures that could include renewables energy provision on all new residential developments.

- 6.38 Consequently, when assessing PPL10 Renewable Energy Generation in particular, the emerging policy now requires that residential applications should be accompanied by an 'Energy and Sustainability Statement'. In this case, such a Statement has not been forthcoming, and as this emerging policy should now be given considerable weight - due to the advance nature of the adoption process of the emerging plan and lack of objections to the policy therein - it is considered that this issue can be best addressed through the following planning condition.

Prior to the occupation of any dwelling a scheme detailing how a minimum of 20% of the energy needs generated by the development can be achieved through

renewable energy sources shall be submitted to and approved in writing by the local planning authority. The scheme shall detail the anticipated energy needs of the scheme, the specific renewable technologies to be incorporated, details of noise levels emitted (compared to background noise level) and how much of the overall energy needs these will meet and plans indicating the location of any external installations within the development. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter

Reason: To ensure the development contributes to minimising the effects of, and can adapt to a changing climate.

- 6.39 With such a condition in place, Officers believe the development can adequately comply with the requirements of emerging Policy PPL10, therefore, no objections on these grounds are raised.

7. Conclusion

- 7.1. As established through the granting of outline application 16/00031/OUT the principle of residential development for up to 210 dwellings on this site is acceptable.
- 7.2. The detailed design, layout, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety.
- 7.3. The application is therefore recommended for approval subject to a legal agreement to secure the necessary financial contribution towards RAMS.

8. Recommendation

- 8.1. The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial Contribution towards RAMS	£127.30 per dwelling

8.2. Conditions and Reasons

- 1 The development hereby permitted shall be carried out in accordance with the following approved Drawing Nos:
- TW024-PL-02 F
 - TW024-PL-03 B
 - TW024-PL-04 B
 - TW024-PL-05 B
 - TW024-PL-07 B
 - TW024-PL-08 B
 - TW024-PL-09 B
 - TW024-PL-10 A
 - TW024-NA20-01 00
 - TW024-NA22-01 00
 - TW024-PA25-01 00
 - TW024-NA34-01 00
 - TW024-PA34-01 00
 - TW024-PA34-02 00
 - TW024-PT37-01 00
 - TW024-NT42-01 00
 - TW024-NT42-02 00

TW024-NA44-01 00
TW024-NA45-01 00
TW024-NA51-01 00
TW024-NA51-02 00
TW024-WOOD-01 00
TW024-ST-01 00
TW027-SS-01 00
TW027-GR-01 00
TW027-GR-02 00
21.5136.01 B
21.5136.02 A
21.5136.03 A
21.5136.04 B
21.5136.05 B
21.5136.06 A
21.5136.07 A
21.5136.08 A
21.5136.09 A
21.5136.10 B
21.5136.11 A
21.5136.12 B
2101470-002
2101470-003
2101470-006
2101470-007 A

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

- 2 No development shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - To ensure that materials of an acceptable quality appropriate to the area are used and insufficient information has been submitted in this regard.

- 3 Prior to occupation of any phase of the development a 1.5 metre x 1.5 metre clear visibility, as measured from and along the boundary, shall be provided on both sides of the vehicular accesses. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

- 4 Prior to the commencement of any phase of the development, details of the estate roads and footways (including layout, levels, gradients, surfacing, traffic calming and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

- 5 Any proposed boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

- 6 The development of any phase shall not be occupied until such time as a car parking and turning areas has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning 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.

- 7 Prior to the commencement of any above ground development details of cycle parking for those properties without a garage shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details which shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

- 8 Prior to above ground works, a scheme for the provision of electric vehicle charging facilities for the new dwellings hereby approved shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facilities shall be installed in a working order prior to first occupation of the dwellings.

Reason: In order to promote sustainable transport.

- 9 Prior to the occupation of any dwelling a scheme detailing how a minimum of 20% of the energy needs generated by the development can be achieved through renewable energy sources shall be submitted to and approved in writing by the local planning authority. The scheme shall detail the anticipated energy needs of the scheme, the specific renewable technologies to be incorporated, details of noise levels emitted (compared to background noise level) and how much of the overall energy needs these will meet and plans indicating the location of any external installations within the development. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter

Reason: To ensure the development contributes to minimising the effects of, and can adapt to a changing climate.

8.3. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Conditions Precedent

The applicant is reminded that this detailed planning consent is subject to conditions attached to the outline permission for this development reference 16/00031/OUT or

21/01667/VOC. Please refer to the outline planning permission to ensure full compliance with all conditions.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Highways

Prior to occupation, the development each pedestrian crossing point shall be constructed with a drop kerb and tactile paving on both sides of the road in accordance with the Essex Design Guide.

Areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.

The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

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

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

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

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

9. **Additional Considerations**

Public Sector Equality Duty (PSED)

9.1. In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:

- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

9.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.

9.3 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.

9.4 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

9.5 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.

9.6 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).

9.7 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

9.8 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

9.9 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by

Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10 **Background Papers**

10.2 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.