

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	09/06/22
Planning Development Manager authorisation:	JJ	09/06/2022
Admin checks / despatch completed	DB	09.06.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	09.06.2022

Application: 22/00056/FUL **Town / Parish:** Thorpe Le Soken Parish Council

Applicant: Oakland Country Homes

Address: Land South of Frinton Road Thorpe Le Soken

Development: Proposed development of six bungalows.

1. Town / Parish Council

Thorpe Le Soken Parish Council
02.05.2022

The Parish council have reviewed and considered the application and have concerns regarding highways safety along this part of Frinton road and the added traffic burden to an already very busy road, therefore the council object to the application on this basis.

2. Consultation Responses

ECC Highways Dept
12.04.2022
(initial comments)

The information submitted with the application has been fully assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a site visit. The site is situated on the B1033 Frinton Road that is subject to a 40-MPH speed limit. The proposal would introduce another new access onto the B1033 Frinton Road, close to another new access for Planning Application: 18/00098/OUT (allowed on appeal ref. APP/P1560/W/18/3209480).

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

1. The Highway Authority will protect the principle use of the highway as a right of free and safe passage of all highway users. The proposal would introduce a new access onto the B1033 Frinton Road, which is a Main Distributor. The function of a Main Distributor is to carry traffic safely and efficiently between major centres within the County.

The Highway Authority will protect the function of Main Distributors within defined settlement areas by ensuring the number of access points is kept to a minimum and ensuring that new access points will be designed and constructed in accordance with current standards.

2. As far as can be determined the applicant has failed to demonstrate adequate visibility would be provided at the new access onto the B1033 Frinton Road in accordance with the design speed of the B1033 Frinton Road, which is 40-MPH. The lack of adequate visibility would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety.

3. Due to the design speed of the B1033 Frinton Road, the new access should be designed and constructed in accordance with the Design Manual for Roads and Bridges. This is not the case and therefore the new access would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety.

4. As far as can be determined the proposal does not include a minimum 2-metre-wide footway between the new access onto the B1033 Frinton Road and the bus stop on the south side of the B1033 Frinton Road (East of Lifehouse Drive) or provide a link to the existing footway on the north side of Frinton Road. The proposal would therefore lead to pedestrians walking in the B1033 Frinton Road carriageway which would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety. It also would not encourage trips to be made by more sustainable modes of transport such as walking and public transport.

The proposal is therefore contrary to policy DM1, DM2, DM9 and DM10 contained within the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1. The proposal would lead to the creation of a new vehicular access. As far as can be determined from the submitted plans, as proposed the new access has not been provided with the required vehicular visibility splays which must be over land in the applicant's control and or highway land. The lack of such visibility would result in an unacceptable degree of hazard to all road users to the detriment of highway safety as stated in the recommendation above.

2. The Highway Authority may reconsider a revised proposal, where access is taken from the neighbouring development (18/00098/OUT/21/02075/DETAIL) as both developments come under the same developer (Oakland Country Homes) reducing the number of access points onto Frinton Road and providing better footway connectivity for the development and existing local transport facilities.

UU Open Spaces
21.04.2022

Response from Public Realm
Open Space & Play

Application Details

Application No: 22/00056/FUL

Site Address: Land South of Frinton Road Thorpe Le Soken Essex

Description of Development: Proposed development of six bungalows
Current Position

There is currently a deficit of 2.43 hectares of play and formal open space in Thorpe-le-Soken.

Recommendation

Due to the significant lack of provision in the area it is felt that a contribution, is justified and relevant to the planning application and that this money would be used towards providing additional facilities

at Lockyers Wood

Tree & Landscape Officer
25.03.2022

The application site is rough grassland with no trees or other significant vegetation in the main body of the land. The boundary with the highway is demarcated with a drainage ditch and an established hedgerow.

The ditch has been previously cleared and the hedgerow cut down to a height of approximately 60cm. The hedgerow has started to regenerate and will recover to retain its value as a landscape feature.

There are also established hedgerows comprising indigenous species on the southern and eastern boundaries of the application site.

In terms of the impact of the development proposal on the local environs it would be desirable to retain the hedgerows and to secure additional planting on the land between the fronts of the proposed new dwellings and the Frinton Road.

Should planning permission be likely to be granted a soft landscaping condition should be attached to secure details of the indicative new planting shown on the proposed block plan in order to soften, screen and enhance the appearance of the development.

Environmental Protection
24.03.2022

Thank you for your consultation regarding the proposed development above. The Environmental Protection Team's comments are given below:

Construction Method Statement:

Prior to the commencement of any construction, ground works or demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control. This should at minimum include the following where applicable.

o Noise Control

1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.

4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for

approval by Pollution and Environmental Control prior to the commencement of works.

o Emission Control

1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

2) No materials produced as a result of the site development or clearance shall be burned on site.

3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

Contaminated Land:

I have checked the contaminated land maps and it shows potential contamination from a small unknown infill (approximately 200m west) and a historic landfill site (approximately 500m south) of this site. It is recommended that prior to the commencement of the permitted development, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination.

This will incorporate a 'phase one' assessment in the form of a desktop study/site walkover report. This will include a review of previous investigations; previous uses; potential sources of contamination; and potential pathways and receptors. If necessary, this shall be followed up by a 'phase two' risk assessment that shall incorporate a detailed intrusive investigation referring to the phase one study.

Reason: to protect the health workers and end users of the site.

Please note this supersedes the previous recommendation dated: 12 April 2022 for this application.

ECC Highways Dept
03.05.2022
(comments following
submission of amended
plans)

The information submitted with the application has been fully assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a site visit. The site is situated on the B1033 Frinton Road that is subject to a 40-MPH speed limit. It is noted from the amended proposals that vehicular and pedestrian access to the proposed development will be taken from the internal spine road from the neighbouring development to the west off Frinton Road which is subject to a separate planning application and the new dwellings will be located within a cul-de-sac, the proposal provides adequate parking and turning within the site together with footway connectivity with the proposed development, taking these factors into consideration:

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

mitigation and conditions:

1. Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of each vehicular access. Such visibility splays shall be retained free of obstruction above 600mm at all times and 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.

2. Prior to the occupation of any of the proposed dwellings the internal road layout shall be provided in principle and accord with Drawing Number:

o102 Rev. PL3 Proposed site layout.

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.

3. No unbound material shall be used in the surface treatment of the vehicular access/ private drive throughout.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

4. Any new 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.

5. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, sealed and if required marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

6. Any single garages should have a minimum internal measurement of 7m x 3m. All garages shall be retained for the purposes of vehicle parking in perpetuity.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

7. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex

County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

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: 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.

2: 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

3: 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.

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

3. Planning History

16/01652/OUT	Proposed erection of 3 no. single storey detached dwellings.	Approved	07.12.2016
17/00387/OUT	Three detached single storey dwellings.	Refused	05.05.2017
17/01945/DETAIL	Submission of reserved matters pursuant to outline planning permission 16/01652/OUT for the construction of 3 detached dwellings.	Approved	21.12.2017

18/00098/OUT	10 detached single storey dwellings.	Refused	17.04.2018
21/00448/FUL	Proposed new residential development consisting of the construction of 28 new bungalows, new access onto Frinton Road and associated development.	Withdrawn	17.01.2022
21/02075/DETAIL	Reserved Matters application pursuant to application 18/00098/OUT (allowed on Appeal ref. APP/P1560/W/18/3209480) considering Access, Appearance, Landscaping, Layout and Scale for 10 detached single storey dwellings.	Approved	06.06.2022
05/00827/FUL	Erection of sewage pumping station.	Approved	23.08.2005
18/00098/OUT	10 detached single storey dwellings.	Refused (allowed on appeal)	17.04.2018
21/00448/FUL	Proposed new residential development consisting of the construction of 28 new bungalows, new access onto Frinton Road and associated development.	Withdrawn	17.01.2022
21/02075/DETAIL	Reserved Matters application pursuant to application 18/00098/OUT (allowed on Appeal ref. APP/P1560/W/18/3209480) considering Access, Appearance, Landscaping, Layout and Scale for 10 detached single storey dwellings.	Approved	06.06.2022

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP4 Meeting Housing Needs

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

DI1 Infrastructure Delivery and Impact Mitigation

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PPL3 The Rural Landscape

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

In relation to housing supply:

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 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, Paragraph 11 d) of the Framework requires granting 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 (what is often termed the 'tilted balance').

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

5. Officer Appraisal

Site Description

The application site is located on the southern side of Frinton Road to the east of the settlement of Thorpe-le-Soken. The site is predominantly located outside of the settlement development boundary of Thorpe-le-Soken as defined within the Adopted Local Plan, however the section furthest west of the site falls within the settlement development boundary. The site itself forms part of a large field which extends to the west. The field in its entirety is laid to grass and enclosed by hedging.

The character of the surrounding area is largely urban, with residential properties the north-east and north-west, and Parkers Nursery to the south. Further out to the north, east and south the character is more rural, with large areas of open grassed and agricultural land.

Description of Proposal

The application seeks full planning permission for the erection of six bungalows, all of which will be served by three bedrooms and accessed via an access point associated with the adjacent development to the west (approved under planning permissions 18/00098/OUT and 21/02075/DETAIL).

Site History

Under planning permissions 16/01652/OUT and 17/01945/DETAIL, three dwellings were approved on the eastern half of the current application site. However, these permissions were not implemented and have since expired.

Under planning permission 17/01558/OUT, a further three dwellings were granted outline planning consent on the western half of the current application site. Again though, this permission has since expired.

On the land adjacent to the west of the site, planning permission 18/00098/OUT (which was allowed on Appeal ref. APP/P1560/W/18/3209480) granted consent for ten dwellings. The reserved matters for this application was recently allowed in June 2022 under reference 21/02075/DETAIL.

Assessment

1. Principle of Development

It is acknowledged that a total of six dwellings were previously allowed on this application site. However, there has been a significant recent change in local plan policy since the determination of 16/01652/OUT, 17/01945/DETAIL and 17/01558/OUT, with the Council having recently adopted its Local Plan to cover the period of 2013-2033 and able to demonstrate a comfortable five year housing land supply.

Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The vast majority of the application site (the whole site bar approximately half of one of the six proposed dwellings) lies outside of a defined settlement boundary in the 2013-2033 Local Plan, with the nearest settlement of Thorpe-le-Soken

located adjacent to the west. The proposed development would therefore extend beyond the area planned to provide growth for this settlement.

In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement. The proposal therefore gives rise to harm through failing to comply with a statutory plan-led approach to the location of future housing.

In view of this, the proposal's conflict with policy gives rise to a significant degree of harm. The spatial strategy of Policy SP3 and place shaping principles of Policy SP7 reflect the Framework's sustainable development objectives and the proposal's conflict with both is given full weight. The principle of development is therefore not acceptable in this location.

2. Affordable Housing

Paragraph 64 of the NPPF (2021) states provision of affordable housing should be sought for residential developments that are major developments. Within the glossary of the NPPF (2021), major development is defined as development where ten or more homes will be provided, or the site has an area of 0.5 hectares or more. In addition, to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.

Adopted Local Plan Policy LP5 states that the Council will expect for schemes of 11 or more (net) homes, 30% of new dwellings to be made available for affordable housing.

The development subject of this application is for a total of six dwellings on a site measuring approximately 0.63 hectares. As such, if the site was to be considered on an individual basis, it would not be classed as a major development as per the NPPF (2021) description.

However under planning permissions 18/00098/OUT and 21/02075/DETAIL, land to the immediate west has been allowed for ten dwellings, and therefore combined the two developments meet the NPPF description of major development. The applicant for 21/02075/DETAIL is the same as the current application, Oakland Country Homes, and the applications were submitted in December 2021 and March 2022 respectively. Furthermore, the two applications are to be served by one shared access point and connect via the same internal road network, further demonstrating the connectivity between the two sites.

It is therefore considered that there is a clear and direct link between the two sites, and the two proposals combined represent a sub-division of a larger site for 16 dwellings. The above policies are therefore applicable and if minded to approve this application, up to five of the proposed properties would need to be secured for affordable housing purposes through a Section 106 legal agreement.

A completed Section 106 obligation to secure the affordable housing contribution has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

3. Visual Impacts

Paragraph 130 of the NPPF (2021) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs. Policy SPL3 and LP4 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout which create a unique sense of place.

The linear layout of the development responds appropriately to the existing residential character opposite, as well as to the recently approved scheme adjacent to the west and in the wider locality. The dwellings and double garage to the front (Plot 6 only) are well set back from the highway boundary with the planting buffer along the site frontage being retained in the most part and enhanced with new tree planting helping to screen and soften the appearance of the development. The layout of the development is considered to be fairly spacious with generous rear garden areas. There is sufficient variation in the house type, individual siting of the plots, detailed design and materials to result in a visually varied but harmonious street scene. Furthermore, the properties also have gross internal floorspace in excess of that required by the Technical Housing standards - nationally described space standards for 3 bedroom properties and all habitable rooms receive adequate natural light.

In addition, the single storey scale of the development minimises the visual impact within the immediate locality as well as ensuring that longer distance views of the development from the adjacent open fields would be minimised. If recommended for approval a condition could be imposed to request full details of proposed boundary treatments, to ensure the character and impact of the development is maintained.

Overall the development is considered to represent an acceptable scale, layout and appearance that will not appear harmful to visual amenity or the character and appearance of the street scene.

4. Impact to Neighbouring Amenities

Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The development allows for an internal layout and separation distances that would not detract from the amenities of any nearby dwellings or the future occupiers of the proposed dwellings. The development will not result in any material loss of sunlight, daylight or outlook. In addition the dwellings' single storey nature also ensures no overlooking concerns.

Furthermore, the dwellings are served by a private amenity space of a size and configuration that will appropriately meet the needs and expectations of the future occupants and which is commensurate to the size of dwelling and the character of the area, in accordance with Policy LP4 of the 2013-2033 Local Plan.

The site can satisfactorily accommodate the proposed dwellings without giving rise to detrimental impacts on residential amenities for existing or future occupants.

5. Highway Safety

Paragraph 110 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Paragraph 104 requires that streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people.

Essex Highways Authority, upon being consulted, initially raised an objection due to inadequate visibility splay provision on an access point to a Main Distributor road, and the lack of a minimum 2

metre wide footway between the new access and the bus stop on the south side of the B1033 Frinton Road.

Following this, amended plans were provided to link the development to that adjacent to the west (for ten dwellings), in order to reduce the number of new access points onto this Main Distributor road. As such this current application will be accessed via the approved access point within the site adjacent to the west. Further, the application adjacent recently approved (reference 21/02075/DETAIL) has also been amended to incorporate a pedestrian footpath at the western end of the development linking to the existing footpath and bus stop on Frinton Road, and this application sites internal road connects with this. Given this, Essex Highways Authority have now removed their earlier objection subject to conditions.

Furthermore, the Essex County Council Parking Standards set out the parking requirements for new development, and confirm that for residential properties of one bedroom there should be one parking space measuring a minimum of 5.5 metres x 2.9 metres or, if being used as one of the parking spaces, a garage should measure a minimum of 7 metres x 3 metres. The submitted information demonstrates this would be achievable.

6. Tree Impacts

The application site is rough grassland with no trees or other significant vegetation in the main body of the land. The boundary with the highway is demarcated with a drainage ditch and an established hedgerow.

The ditch has been previously cleared and the hedgerow cut down to a height of approximately 60cm. The hedgerow has started to regenerate and will recover to retain its value as a landscape feature. There are also established hedgerows comprising indigenous species on the southern and eastern boundaries of the application site.

In terms of the impact of the development proposal on the local environs it would be desirable to retain the hedgerows and to secure additional planting on the land between the fronts of the proposed new dwellings and the Frinton Road.

Had the application instead been recommended for approval, a soft landscaping condition to secure details of the indicative new planting shown on the proposed block plan would have been included, in order to soften, screen and enhance the appearance of the development.

7. Drainage

Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

Policy PPL5 of Section 2 of the adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

The agent for the application has confirmed on the application form that the development would be connected to the existing public foul sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable in the event of an approval.

8. Financial Contributions - Open Space and RAMS

(i) Open Space

Paragraph 55 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 57 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Section 2 Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. Financial contributions will also be sought through s106 legal agreements (or an appropriate alternative mechanism) towards ongoing maintenance.

In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is currently a deficit of 2.43 hectares of play and formal open space in Thorpe-le-Soken, and a contribution towards play and open space is justified and relevant to this planning application, and would be used towards providing additional facilities at Lockyers Wood. A unilateral undertaking has been prepared to secure this legal obligation.

(ii) Habitat Regulations Assessment

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

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately being approximately 1,900 metres from Hamford Water Ramsar, SAC and SPA sites. New housing development within the Zoi would be likely to increase the number of recreational visitors to 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.

A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Other Considerations

Thorpe-le-Soken Parish Council have raised concerns regarding highway safety and the additional traffic the proposal would add to this, and therefore object.

In answer to this, the highway safety implications of the scheme are detailed within the main body of the report above.

There have been no other letters of representation received.

Conclusion

It is acknowledged that under previous planning permissions six dwellings have been allowed on this site. However, these permissions have since expired, and since that time the Council is now able to demonstrate a recently approved Local Plan and a healthy five year housing supply. The proposal will result in very modest benefits in the form of additional household spending in the local economy and six additional market dwellings however these benefits will not outweigh the harm of allowing residential development outside of identified settlements.

Given this, despite there being no identified harm in relation to the visual impacts, no harmful impacts to neighbouring amenities, trees or highway safety, the principle of development is not acceptable. Furthermore, the site is considered to be connected to the development recently approved directly adjacent to the west, and constitutes a larger development that combined would require an affordable housing contribution, but which has not been provided. Accordingly the application is recommended for refusal.

6. Recommendation

Refusal

7. Reasons for Refusal

- 1 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of a defined settlement boundary in the 2013-2033 Local Plan, with the nearest settlement of Brightlingsea located adjacent to the north. The proposed development would therefore extend beyond the area planned to provide growth for this settlement.

In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement. The proposal therefore gives rise to harm through failing to comply with a statutory plan-led approach to the location of future housing. In view of this, the proposal's conflict with policy gives rise to a significant degree of harm. The spatial strategy of Policy SP3 and place shaping principles of Policy SP7 reflect the National Planning Policy Framework (2021) sustainable development objectives and the proposal's conflict with both is given full weight. The principle of development is therefore not acceptable in this location.

- 2 Paragraph 64 of the NPPF (2021) states provision of affordable housing should be sought for residential developments that are major developments. Within the glossary of the NPPF (2021), major development is defined as development where ten or more homes will be provided, or the site has an area of 0.5 hectares or more. In addition, to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.

Adopted Local Plan Policy LP5 states that the Council will expect for schemes of 11 or more (net) homes, 30% of new dwellings to be made available for affordable housing.

It is considered that this application, and that previously approved under Tendring District Council planning references 18/00098/OUT and 21/02075/DETAIL constitute a sub-division of a single site and therefore result in a total of 16 units. The above policy is therefore applicable and therefore there is a need to provide for affordable housing through a section 106 legal agreement, unless viability indicate otherwise. No viability information has been provided.

A completed Section 106 obligation to secure the affordable housing contribution has not been provided prior to the application determination date and the application is therefore contrary to the above policy.

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 Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.