

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JR	20.05.2022
Planning Development Manager authorisation:	JJ	25/05/2022
Admin checks / despatch completed	ER	25/05/2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	25.05.2022

Application: 21/01392/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr Milleare

Address: 87 Thorpe Road Kirby Cross Frinton On Sea

Development: Proposed development to create three new bungalows to the rear of existing property.

1. Town / Parish Council

FRINTON & WALTON TOWN COUNCIL
20.09.2021

Refusal - overdevelopment of the site. Could not support backland development.

2. Consultation Responses (Summarised)

ECC Highways Dept (1st consultation)

Concerns raised regarding:

- provision of cycle parking for Plot 3 as no garage,
- parking space for Plot 3 is next to the boundary fence for the host dwelling. The 1.8m high fence will impact on the visibility splay for the driveway serving Plot 3. The parking space could be relocated the other side of the property to maximise the visibility
- It is not clear what parking and turning facilities are being retained for the host dwelling. A turning facility will need to be retained for the host dwelling.
- It is not clear from the information provided what arrangements are being made regarding refuse collection for the 3 dwellings.

Tree & Landscape Officer
13.09.2021(1st consultation)

The application site currently forms part of the residential curtilage of the host property. It is currently used as the rear garden and is set to grass with established trees and shrubs.

Some of the trees are mature specimens and are in good health and condition however their positions are such that they are set back from the highway and partially obscured by the host property and adjacent dwellings.

Whilst the trees can be glimpsed between properties their amenity value is moderate to low and consequently they do not merit retention or formal legal protection by means of a Tendring District Council Tree Preservation Order.

It would appear that there is little public benefit to be gained by any new soft landscaping associated with the development of the land.

Building Control
17.09.2021 and
11.02.2022

Access for a fire fighting appliance required in accordance with Approved Document B.
(Officer note: information has now been submitted re proposed

sprinkler system to all 3 dwellings)

UU Open Spaces
20.09.2021 and
14.03.2022

There is currently a deficit of -14.12 hectares of equipped play in Frinton, Walton & Kirby.

Any additional development in Kirby will increase demand on already stretched play areas. The nearest play area to the proposed development is Halstead Road, Kirby approximately 0.5 miles from the proposed development. The site is well used by the local community and would struggle to cope with any additional usage.

Due to the significant lack of play facilities in the area it is felt that a contribution towards play is justified and relevant to the planning application and will fund ongoing improvements & maintenance at Halstead Road play area

ECC Highways Dept (2nd
Consultation)

Officer Note: The previous concerns raised by the Highway Officer have been resolved in the amended plans as outlined below:

- provision of cycle parking for Plot 3 has been provided
- parking space for Plot 3 has been relocated the other side of the property to maximise the visibility
- A plan showing the retained parking for the host dwelling has been submitted
- An area for refuse collection has been indicated on the amended plans.

The site is situated on the B1033 Thorpe Road that is subject to a 30-mph speed limit and is similar to previous application 19/00118/FUL. The proposal utilises an existing access onto the B1033 Thorpe Road that is to be widened, the host dwelling will retain a separate second existing access. The existing boundary hedge for the host property has already been removed improving the visibility splays for the existing accesses, considering these factors the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions with regards to visibility splays, access and internal layout details, no unbound material, no surface water discharge onto highway, private drive construction, parking areas and boundary treatment planting.

Tree & Landscape Officer
02.03.2022 (2nd
consultation)

The information provided in relation to soft landscaping gives an indication of the species to be used in the soft landscaping scheme but does not include sufficient detail relating to planting positions, numbers of trees and shrubs or the sizes of the plants at time of planting

As previously stated there appears to be little public benefit to be gained by any new soft landscaping associated with the development of the land however the indicative planting proposal would help to soften and enhance the appearance of the development if additional details were provided as described above.

Fire Brigade

Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13 and is considered satisfactory subject to fire brigade access and water supplies for firefighting purposes to the proposed development being fully compliant with Building Regulations Approved Document B, B5.

This proposal meets an acceptable standard subject to this being fully compliant with British Standard 9251:2021 and being fully signed off as such by a competent person.

Any new roads or surfaces are able to withstand the standard 18 tonne fire appliances used by Essex County Fire and Rescue Service. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

3. Planning History

19/00118/OUT	Proposed demolition of existing dwelling and erection of three replacement dwellings (Bungalows) - outline application considering Layout only.	Approved	27.09.2019
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4. Relevant Policies / Government Guidance

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

National Planning Policy Framework July 2021 (The Framework)
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
LP1 Housing Supply
LP3 Housing Density and Standards
LP4 Housing Layout
LP8 Backland Residential Development
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL10 Renewable Energy Generation
CP1 Sustainable Transport and Accessibility

Supplementary Planning Guidance:

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
Essex County Council Development Management Policies 2011
Essex County Council Parking Standards Design and Good Practice Guide 2009
Tendring Provision of Open Recreational Open Space for New Development SPD 2008 (Open Space and Play SPD)

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 Thorpe Road, Kirby Cross and comprises of a large detached dwelling and garden area of around 0.19 hectares in total. The rear of the property is laid to grass with some mature trees to the rearmost part of the site. The rear and side boundaries are enclosed by close boarded fencing and some hedgerows. To the front of the property is an in-and-out driveway and landscaped area. Sited toward the frontage, along the eastern boundary is a garage and a number of outbuildings.

The main dwelling is considered to be a historic property and is depicted on the 1st edition OS map, so is considered to predate c.1870. The dwelling is depicted within a large plot of landscaped grounds and is of a size to suggest it was historically a relatively grand dwelling, utilising slate as a roofing material which is likely to have been made possible by the coming of the railway to this area.

The surrounding area is residential in nature with a mix of dwellings of varying styles and designs along Thorpe Road, with this small run of 9 dwellings having exceptionally deep rear gardens. To the rear of the site are residential properties, which are part of a larger residential development approved in 1997.

The application site lies within the Defined Settlement Development Boundary of Frinton, Walton and Kirby Cross in the Tendring District Local Plan. The property at No. 87 Thorpe Road is not listed and the site is not located with a Conservation Area and is within Flood Zone 1, which has a low risk of flooding.

Proposal

The application seeks planning permission to demolish the existing garage and outbuildings at No. 87 Thorpe Road and construct two 3 bed detached bungalows and one 2 bed detached bungalow, parking/turning areas and landscaping along with a new access way from Thorpe Road which would utilise the existing vehicular crossover.

Amended plans were received during the course of the application due to officer concerns regarding the layout and spaciousness of the development, the overall design of three bungalows and highways concerns re the parking layout, visibility splays and fire brigade access. A full re-consultation was undertaken with both consultees and neighbours and the application is therefore assessed on the basis of the amended plans and subsequent consultation responses.

Principle of Development

The development plan for Tendring Council comprises of the adopted Tendring District Local Plan 2013-2033 and Beyond. The site lies within the Settlement Development Boundary (SDB) of Frinton, Walton, and Kirby Cross as established within the adopted local plan.

Policy SPL2 supports new development within defined settlement development boundaries which would encourage sustainable patterns of growth and carefully control urban sprawl. Within a defined Settlement Development Boundary, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.

Frinton, Walton and Kirby Cross is defined with Policy SPL1 as a smaller urban settlement within the settlement hierarchy. These areas have large populations and benefit from a range of existing infrastructure and facilities and are areas that have been identified to deliver sustainable housing growth.

Furthermore the principle of backland development on this site has been established in planning approval 19/00118/OUT (for the demolition of the existing dwelling and erection of three replacement dwellings (Bungalows) - outline application considering Layout only). Whilst this application proposed the demolition of the existing dwelling (No. 87 Thorpe Road), the layout comprised of three bungalows, two of which were located to the rear of the site, with a wider access road in a similar location, running along the boundary with No. 85.

Specifically Policy LP8 is relevant due to the nature of the development constituting backland development in this residential location. LP8 states that proposals for the residential development of "backland" sites must comply with the following criteria:

a. where the development would involve the net loss of private amenity space serving an existing dwelling, that dwelling must be left with a sufficient area of private amenity space having regard to the standards in this Local Plan;

The host dwelling is left with a rear amenity area in excess of 200sqm, which is considered to be more than adequate to serve the host dwelling and maintain an acceptable setting for the host dwelling.

b. a safe and convenient means of vehicular and pedestrian access/egress must be provided that does not cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will not be permitted;

The existing vehicular access is to be extended to form a new access road, along the boundary with No. 85, with the existing garage and outbuildings of No. 87 being removed. The width of the access road is a minimum of 4.5m wide and some 2m from the main dwelling of No.85 which also has a garage on sited on the shared boundary. Therefore it is not considered that the proposal would result in undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Matters of highway safety are also addressed satisfactorily and discussed in further detail within the main body of the report.

c. the proposal must avoid "tandem" development using a shared access;

The development has its own existing access, as does the host dwelling No. 87 and therefore is not considered to be tandem development.

d. the site must not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;

The development proposed would see three dwellings within the rear garden area of the host dwelling, making good use of the whole site.

e. the site must not be on the edge of defined settlements where likely to produce a hard urban edge or other form of development out of character in its particular setting;

The site is within a residential area, surrounded by other residential properties and within the settlement development boundary of Frinton, Walton and Kirby Cross.

f. the proposal must not be out of character with the area or set a harmful precedent for other similar forms of development.

The principle of this site being developed has been established under the 2019 approval as outlined previously in the report. This outline consent (where layout was approved) remains extant and therefore a material planning consideration of very significant weight. Whilst the properties fronting Thorpe Road have larger than average gardens, the residential housing development, which runs along the side of No. 91 and to the rear of the properties in this run fronting Thorpe Road, is of a much higher density and therefore the development is not deemed to be out of character with the area or would set a harmful precedent for similar forms of development in the immediate locality. Each planning application should be assessed on its own individual merits and the matter of precedent is discussed in further detail within the main body of the report below.

Furthermore, there can be no objection to the single storey scale of the proposed dwellings having regard to the mixed character of the area which includes both bungalows and two storey dwellings directly adjacent to the site. The single storey scale is an appropriate response to the character of the area and will in fact minimise the visual and neighbouring impact of the development.

Therefore the site is considered to be an appropriate location for additional backland development. As such the principle of residential development on the site is acceptable subject to the detailed considerations relevant to this proposal which are set out below.

Character and Appearance

The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).

Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.

The proposed development comprises of three detached bungalows, 2 x 3 bed and 1 x 2 bed, which are considered to be broadly of a size, scale and design in keeping with the surrounding area which includes a mix of bungalows, chalets and two storey houses. In reaching this sub-conclusion due regard is given to the planning history on site and the fact that there are numerous examples of in-depth development in the area. The external materials are a mix of brickwork, horizontal cladding and clay tiles and are considered to harmonise with the mixed palette of external materials and finishes in the surrounding area. The bungalows would be reasonably well balanced in terms of symmetry and the dual pitched roof and front projections would reduce the bulk and mass of the development in this backland location and add interest to the front elevations of the three bungalows. The submitted plans demonstrate the layout of the proposed bungalows

which allows for a reasonably well-spaced development retaining at least 1 metre distance to both side and rear boundaries when bordering neighbouring dwellings. Whilst officers are concerned about the length of the proposed dwellings occupying plots 1 and 2, due regard is given to the planning history and the fact that an extant outline consent is in place which allowed 3 dwellings on this site (including the area occupied by No. 87), two of the three dwellings (allowed under the outline consent) would be located in similar positions as the dwellings on plots 1 and 2 (due regard is given to the fact that layout was approved as part of the outline consent). Essentially, having regard to the fallback position (i.e. the extant planning permission) there will be a very minor increase in built form and footprint coverage. As such, officers are of the view that a refusal based on 'overdevelopment' would be difficult to defend on appeal mainly because of the extant outline permission on site, but also because insofar as character and appearance matters are concerned, there are no obvious symptoms of overdevelopment (in terms of 'character and appearance' considerations), especially if the fall-back position (3 dwellings on site) is taken into consideration.

All new dwellings must also accord with the Technical housing standards – nationally described space standards (2015) which sets out minimum gross internal floor space for new dwellings. A two bedroom, one storey dwelling requires a minimum of 61-70sqm of Gross Internal Floorspace (GIA) and a three bedroom, one storey dwelling requires a minimum of 74-95sqm of GIA. There are also requirements for storage and bedroom sizes. From the plans submitted the proposed bungalows would meet these requirements. It is also considered that the internal layout is appropriate with all habitable rooms having adequate natural light.

Policy SPL3 requires that all new development makes provision for adequate private amenity space. Policy LP4 seeks provision of private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area. The amenity space provided is of a size considered to be appropriate for each of the three dwellings proposed and forms a well laid out and usable space for future occupants.

Therefore, having regard to the above policy considerations, the proposal is considered to be policy compliant in terms of its scale, layout, appearance and design. The proposal would make more efficient use of the site, consistent with Paragraph 124 of the Framework, and, because it would not be at odds with the character and appearance of the area it would accord with the overall thrust of Policy LP3 in relation to density.

Impact on Residential Amenity

The NPPF, Paragraph 130 maintains that policies and decisions should result in new development that creates 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 SPL3 seeks new development that is designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents, provision is made for adequate private amenity space, waste storage and recycling facilities and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The application site is neighboured by a number of residential dwellings on all sides and the existing access runs between No. 85 and No. 87 both of which front Thorpe Road.

The proposed development is located adjacent to the rear gardens of Nos 85, 87 and 89 and due to the garden sizes of these properties, the proposed dwellings are some distance away from these neighbouring properties. Given the single storey nature of the proposed dwellings it is not considered that the development would give way to any undue overlooking or loss of privacy to these adjoining neighbours. The garage of No.85 is sited on the shared boundary with the site, with the main dwelling (No.85) some 2m from the boundary with the new access way, therefore the relatively minor increase in traffic movements generated from the three proposed dwellings is not considered to be such that it would impact the residential amenities of this neighbour to such a degree that would be considered unacceptable, particularly given the existing driveway and garage that current exists adjacent to this shared boundary.

With regards to the dwellings to the rear of the site, it is considered that there is adequate separation distance from the shared boundaries to mitigate any impacts from the proposed development. Furthermore, due to the orientation of these dwellings to the rear, the site borders the front gardens, garage building and main highway and is well away from the dwellings and their rear amenity areas.

Therefore, given the proposed orientation of the bungalows, their single storey nature and the existing residential use of the site it is not considered that this development would impact on the residential amenities of these neighbouring occupiers in any regard.

Garden sizes and internal floorspace would be sufficient to meet the needs of future occupants and provide a good level of amenity. Overall, the proposal would comply with Policies LP3 and LP4, and the relevant policies of the Framework.

Trees and Landscaping

Policy SPL3 seeks new development that respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. The design and layout of the proposed development should maintain or enhance important existing site features of landscape, ecological, heritage or amenity value.

The application site makes up a large part of the residential curtilage of the host property and is set to grass with established trees and shrubs. To the rear of the site are some mature specimens which are in good health and condition. The indicative site layout makes provision for the retention of some of the trees towards the very rear boundary of Plots 1 and 2.

In order to show the extent of Root Protection Areas (RPA's) of the retained trees and to demonstrate how they will be physically protected for the duration of the construction phase of the development; a Tree Survey and Report in accordance with BS5837: 2012 Trees in relation to design, demolition and construction; Recommendations will be required. This can be secured as a condition.

As the site is set back from the highway any new soft landscaping will make only a moderate contribution to the public realm, nevertheless this is an important aspect of the development in regards to the overall visual amenity of the site.

The information provided in relation to soft landscaping gives an indication of the species to be used in the soft landscaping scheme but does not include sufficient detail relating to planting positions, numbers of trees and shrubs or the sizes of the plants at time of planting, therefore a full Landscaping plan is required, which can be secured via a condition.

Ecology and Biodiversity Implications

Policy PPL4 seeks to protect and enhance the local biodiversity and geodiversity. The site is not of any specific designation and is not located in a rural setting (being surrounded by residential development). The proposed dwellings would intensify the built form within the site, however is currently used as residential garden. Soft landscaping is proposed and the dwellings would all have rear garden areas, therefore it is not considered that there would be a net loss in Biodiversity.

However the development has scope to include wildlife friendly, native planting and habitat boxes for roosting bats and nesting birds. These measures will contribute to biodiversity net-gain in accordance with Paragraph 174(d) of the NPPF (2021) and can be adequately secured by suitable conditions to any grant of planning permission.

Highway Safety/Parking

Paragraph 110 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of this policy are carried

forward within Policies SPL3 and CP1. Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development.

The Local Highway Authority has been consulted on this application and subject to conditions and mitigation as outlined above, the proposal is considered to be acceptable.

The Essex County Council Parking Standards 2009 require that dwellings with 2 or more bedrooms be served by a minimum of 2 parking spaces. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied upon to provide a parking space, should measure 7 metres by 3 metres internally. The submitted plans show that each dwelling would be served by two parking spaces that meets policy requirements, along with 2 visitors' parking spaces. Whilst Plots 1 and 2 both have an integral garage area, these are not policy compliant with regards to garage size and is therefore not considered to provide a parking space and are shown as storage areas.

An 8m x 8m turning area is provided to ensure that vehicles entering and leaving the site can do so in a forward gear in the interests of highway safety. A dedicated paved refuse area is located to the side of the new accessway and is outside of the visibility splays and would not therefore impact on highway safety of vehicles existing the site of refuse collection days. Fire Brigade access is considered to be adequate subject to more detailed plans to be submitted at Building Control stage.

Subject to the use of conditions, the proposal would accord with Policies SPL3 and CP1 and the Highways and Parking SPDs. The proposal is not therefore considered to result in any unacceptable harm to highway safety or result in residual cumulative impacts on the highway network that would be severe. According to Paragraph 111 of the Framework, planning permission should not therefore be refused on highways grounds.

Flood Risk and Drainage

Policy PPL5 requires that all new development must make adequate provision for drainage and sewerage and should include Sustainable Drainage Systems (SuDS) as a means of reducing flood risk. Policy LP4 c) states that the layout of new residential development will be expected to consider surface water management from the outset, and that all surface water should be managed by means of SuDS unless there is an exceptional case not to do so. The Framework Paragraph 167 also states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

The site is located within Flood Zone 1 and is not at undue risk of flooding. All external hardstanding is to be of porous materials. The Agent has confirmed that foul sewage will be disposed of via the mains sewer. However due to the relatively minor increase in built form (compared to the extant permission) on the site, there is a risk of the development increasing the risk of surface water flooding to the neighbouring properties. Therefore is it considered reasonable to add a condition to the grant of planning permission seeking surface water drainage details to be submitted and approved by the Local Planning Authority thus to ensure that the development would not be at undue risk of flooding or increase the risk of flooding elsewhere – the agent has agreed to this.

Climate Change and Renewable Energy/Energy Efficiency

Policy SPL3, Part B criterion d), states that an applicant must demonstrate how the proposal will minimise the production of greenhouse gases and impact on climate change, as per the Building Regulations prevailing at the time and policies and requirements in the Local Plan. Following the Council declaring a climate emergency and its adoption of Policy PPL10, there is a requirement for a Renewable Energy Generation Plan (REGP), to set out measures that will be incorporated into the design, layout and construction, aimed at maximising energy efficiency and the use of renewable energy.

Under Policy PPL10 measures to be considered include the provision of electric vehicle charging points. Paragraph 112 e) of the Framework states that applications for development should be

designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

In accordance with the above policies the use of a planning condition to require the submission of a REGP and the provision electric vehicle charging points is reasonable and necessary.

Legal Obligations - Recreational Impact Mitigation (RAMS)

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

This new residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, but is approximately 2200 metres from Hamford Water SAC, SPA and Ramsar. The Council's Habitats Regulation Assessment has concluded that, with the proposed mitigation (which has been secured by means of an executed Unilateral Undertaking), the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS and therefore the proposal is in accordance with the Essex Coast RAMS SPD.

Legal Obligations - Open Space/Play Space Contribution

In regard to proposals for new residential development, Policy HP5 seeks contributions to the provision and/or enhancement of open space in areas where there is a deficiency in provision, or poor quality of, open spaces. This provision can be either on or off-site depending on the scale and nature of development and the level and quality of existing facilities in the local area.

The Council Open Space's officer has identified a deficit of -14.12 hectares of equipped play in Frinton, Walton & Kirby. Any additional development in Kirby will increase demand on already stretched play areas. The nearest play area to the proposed development is Halstead Road, Kirby approximately 0.5 miles from the proposed development. The site is well used by the local community and would struggle to cope with any additional usage.

Due to the significant lack of play facilities in the area it is felt that a contribution towards play is justified and relevant to the planning application and will fund ongoing improvements & maintenance at Halstead Road play area.

Such a contribution meets the tests under Paragraph 57 of the Framework and the necessary Unilateral Undertaking has been completed. The proposal therefore complies with saved Policy HP5 along with the Open Space and Play SPD.

Environmental Protection

Prior to any commencement of development a Construction Method Statement, in order to minimise potential nuisance to nearby existing residents caused by construction works, should be submitted to and approved in writing by the Local Planning Authority. This should have regard to noise control, vehicle movements and working hours, use of machinery and mobile plant, piling works and both emission and dust control. This can be secured by condition to any grant of planning permission.

Representations

One representation has been received following a public consultation which included a site notice posted at the site and neighbouring consultation letters sent out to the adjacent properties.

Summary of Matters Raised

- Disruption to neighbouring occupiers during construction works

- Financial losses incurred due to loss of rental income
- No work to be undertaken before 8am and after 6pm weekdays and no weekend working
- Builders vehicles could block neighbouring driveways making access difficult
- Damage could occur to neighbouring properties due to demolition and construction works, any repairs should be at the applicant's expense.
- Abutting wall of garage to No. 85 to be made good after demolition of garage at No. 87

All material planning considerations raised have been taken into account within the assessment of the proposal. It is noted that financial losses and damage to neighbouring properties during construction are not material planning considerations.

Conclusion

Due regard is given to the planning permission and realistic fallback position – very considerable weight is given to the fact that a total of 3 dwellings can be constructed under a previous (extant) permission. Insofar as the development proposal as a whole, and the 'over and above' (compared to extant permission) position is concerned, it is considered that the proposed development is consistent with the National and Local Plan Policies identified above, and no clear policy conflict can be identified. In the absence of material harm resulting from the proposal the application is recommended for approval subject to conditional safeguards.

6. Recommendation

Approval – Full

7. Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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

Drawing No FPA.004 Rev H – Site Location Plan
 Drawing No FPA.003 Rev H – Site Plan and Block Plan
 Drawing No FPA.005 Rev I – Plot 1 Floor plan and Roof plan
 Drawing No FPA.006 Rev I – Plot 1 North and East Proposed elevations
 Drawing No FPA.007 Rev H – Plot 1 South and West Elevation
 Drawing No FPA.008 Rev I – Plot 2 Floor plan and Roof plan
 Drawing No FPA.009 Rev I – Plot 2 North and East Proposed elevations
 Drawing No FPA.010 Rev I – Plot 2 South and West Elevation
 Drawing No FPA.011 Rev H - Plot 3 Proposed Floor Plan And Roof Plan
 Drawing No FPA.012 Rev H - Plot 3 - Proposed Elevations
 Drawing No FPA.013 Rev A – Visibility Splay

Reason: In the interests of proper planning and for the avoidance of doubt.

3. Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall provide for:

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- wheel washing facilities;

- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason - In the interests of residential amenity and highway safety and to reduce the likelihood of complaints of statutory nuisance.

4. Prior to the commencement of development, a Tree Survey and Report in accordance with BS5837: 2012 Trees in relation to design, demolition and construction; Recommendations shall be submitted to and approved in writing by the Local Planning Authority to show the extent of Root Protection Areas (RPA's) of retained trees and to show how they will be physically protected for the duration of the construction phase of the development. The development shall be carried out in accordance with the approved Tree Survey and Report.

Reason - In the interests of visual amenity and quality of development.

5. Prior to the commencement of development a Renewable Energy Generation Plan (REGP) must be submitted to and approved in writing by the Local Planning Authority. The REGP shall provide details of the electric car charging points for each unit hereby approved and include all other measures that are to be incorporated into the design, layout and construction of the development hereby approved in order to maximising energy efficiency and the use of renewable energy. Thereafter, the development shall comply with the REGP and the approved measures implemented prior to first occupation.

Reason: In order to ensure that the development contributes towards reducing carbon emissions in addressing climate change, in accordance with Policy PPL10 and SPL3.

6. No development shall take place until a Sustainable Drainage Strategy and associated detailed design, management and maintenance plan of surface water drainage for the site using SuDS methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved Sustainable Drainage Strategy prior to the use of the building commencing and maintained thereafter for the lifetime of the development.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal is incorporated into the design and the build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the lifetime of the proposal

7. Prior to the commencement of above ground works samples of all external materials to be used in the development, must be submitted to and agreed by the Local Planning Authority. The approved materials only are to be used in the development.

Reason – In the interests of visual amenity.

8. Prior to the commencement of any above ground works, a full scheme of hard and soft landscaping works including a detailed plan, showing species to be used, planting positions, numbers of trees and shrubs and the sizes of the plants at time of planting and include wildlife friendly, native planting and locations for habitat boxes for roosting bats and nesting birds shall be submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of visual amenity, the quality of the development and the character and biodiversity of the area.

9. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the adequate retention and maintenance of the approved landscaping scheme for a period of five years in the interests of visual amenity, the quality of the development and the character of the area.

10. Notwithstanding the provisions of Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no extensions, additions, porches or alterations to the dwellings or their roofs shall be carried out and no outbuildings, enclosures, swimming or other pools shall be erected except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

Reason - To ensure that sufficient private amenity space for the dwelling is retained in the interests of residential amenities.

11. There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

12. 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 the vehicular access. 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

13. Prior to the occupation of the development the access and internal layout shall be provided in principle with drawing numbers:
 - FPA.004 Rev. H Proposed site layout plan
 - FPA.013 Rev. A Proposed visibility splay and refuse collection plan.

Reason: To ensure that vehicles using the site do so in a controlled manner, in the interests of highway safety.

14. Prior to first occupation of Plot 3 hereby approved, safe and secure cycle parking must be provided. The approved facility shall be retained in perpetuity.

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

15. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

16. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

17. Prior to the occupation of any of the proposed dwellings hereby approved, the proposed private drive shall be constructed to a minimum width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

18. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay and retained free of obstruction above 600mm at all times.

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.

19. 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.

20. All new driveways and parking areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwelling.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

8. 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.

Highways

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

Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence. Therefore, the applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway

On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway. To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

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.

Building Regulations/Fire Access

It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. Applicants can decide whether to apply to the Local Authority for Building Control or to appoint an Approved Inspector. Local Authority Building Control will consult with the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority (hereafter called "the Authority") in accordance with "Building Regulations and Fire Safety - Procedural Guidance". Approved Inspectors will consult with the Authority in accordance with Regulation 12 of the Building (Approved Inspectors etc.) Regulations 2010 (as amended).

Water Supplies

The architect or applicant is reminded that additional water supplies for firefighting may be necessary for this development. The architect or applicant is urged to contact Water Section at Service Headquarters, 01376 576000.

Sprinkler Systems

"There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy. Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk-based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:		NO

Are there any third parties to be informed of the decision? If so, please specify:		NO
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