

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	17/11/22
Planning Development Manager authorisation:	JJ	17/11/2022
Admin checks / despatch completed	ER	17/11/2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	17/11/2022

Application: 22/01508/DETAIL **Town / Parish:** Frinton & Walton Town Council

Applicant: Atlantic Spa Ltd

Address: Land to The rear of 185 Thorpe Road Kirby Cross

Development: Reserved matters application for the erection of 5no. detached dwellings, considering details of appearance, landscaping, layout and scale, pursuant to outline planning consent 19/01054/OUT.

1. Town / Parish Council

FRINTON & WALTON
TOWN COUNCIL
28.10.2022

Recommends - Refusal. Backland development, splay reduces garden of neighbouring property.

2. Consultation Responses

ECC Highways Dept
11.10.2022

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 the occupation of the development the internal layout and off-street parking shall be provided in principle and accord with drawing number:

o DB22002/005 - Block plan and landscaping

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.

2. As indicated on drawing no. DB22002/005 and prior to the occupation of the development, the proposed private drive shall be constructed to a 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 in accordance with policy DM1.

3. Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, shall be provided on both sides of each 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 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 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 and in accordance with Policy DM1.

5. The proposed development shall not be occupied until such time as the vehicle parking and turning areas indicated on the approved plans, has been hard surfaced and the footway widening adjacent to Thorpe Road completed. 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 dwelling 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. As indicated on drawing no. DB22002/005 the single garages shall have a minimum internal measurement of 7m x 3m.

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 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.

Reason: 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 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 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

2: 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.

3: 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.

4: Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

Tree & Landscape Officer
13.10.2022

The application has been cleared and separated from the host property by new fencing. Some of the trees on the site and on adjacent land are afforded formal legal protection by means of Tendring District Council Tree Preservation Order 98/00019/TPO 185 Thorpe Road, Kirby Cross

In order to establish the extent of the constraint that the protected trees, and other trees are on the development potential of the land, to show their Root Protection Areas (RPA's) and to ensure that they are not harmed by the implementation of any development which may be granted permission the applicant provided a Tree Survey and Report with the outline planning application 19/01054/OUT. The report was in accordance with BS5837: 2012 Trees in relation to design, demolition and construction; Recommendations.

The information contained in the report makes provision for the retention and physical protection of all of the trees that are covered by the TPO.

As the site is set back from the highway any new soft landscaping will make only a moderate contribution to the public realm. Nevertheless new planting should be secured for its own sake and to enhance the appearance of the development for future residents of the development.

3. Planning History

TRE/98/74	Crown lift G.1	Current	20.11.1998
99/01009/FUL	Change of use to residential care home for 6 adults with physical and learning disabilities and single storey rear extension	Refused	01.09.1999

03/01345/FUL	Proposed granny annexe	Approved	06.08.2003
19/01054/OUT	Erection 5no. detached dwellings.	Approved	04.12.2019
TRE/98/74	Crown lift G.1	Current	20.11.1998
99/01009/FUL	Change of use to residential care home for 6 adults with physical and learning disabilities and single storey rear extension	Refused	01.09.1999
03/01345/FUL	Proposed granny annexe	Approved	06.08.2003
19/01054/OUT	Erection 5no. detached dwellings.	Approved	04.12.2019

4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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

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

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP8 Backland Residential Development

PPL3 The Rural Landscape

PPL5 Water Conservation, Drainage and Sewerage

PPL9 Listed Buildings

PPL10 Renewable Energy Generation

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 land to the rear of 185 Thorpe Road, measuring 0.48 hectares. The site itself is largely laid to grass, with a number of mature trees, shrubs and other plants of a mixed age range. Number 185 Thorpe Road is a single storey detached residential property. The character of the surrounding area is relatively urbanised, with a number of residential properties to the east and west. Under appeal reference APP/P1560/W/16/3150967 planning permission has been granted for up to 110 dwellings adjacent to the east of the application site, which is currently under construction and nearing completion.

The access to the site falls within the Settlement Development Boundary for Kirby Cross within the Adopted Local Plan, but the majority of the site falls just outside of this designation. To the west of the site lies a Public Right of Way.

Description of Proposal

This application follows a previously approved outline application (all matters reserved except for access) allowed under planning reference 19/01054/OUT for the development of the site for five dwellings. This application is for the agreement of the remaining reserved matters as requested by the approval of the outline application, which are specifically appearance, landscaping, layout and scale.

The plans provided demonstrate the dwellings are all to be detached, single storey and sited to the rear of Number 185 Thorpe Road. Three dwellings (Plots 1, 2 and 3) are located to the eastern side of the site, with Plots 4 and 5 located to the western side.

Assessment

1. Principle of Development

The application site, bar the access, is located outside of the Settlement Development Boundary for Kirby Cross as defined by the Adopted Tendring District Plan 2013-2033. That notwithstanding, five dwellings on this site were granted outline planning permission in December 2019 (with this reserved matters application then having been submitted within the allotted three year time limit) and the principle of development has therefore already been established as part of the outline approval which remains extant.

The main considerations in this instance relate only to the outstanding reserved matters, namely appearance, layout, landscaping, scale, and any residual impacts to neighbouring amenities.

2. Scale, Layout and Appearance

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 proposal is for five dwellings, which are each to be of a single storey design, located adjacent to the south of Number 185 Thorpe Road. The character of the immediate surrounding area includes a mixture of single and two storey properties, and therefore the proposed single storey dwellings are not out of keeping with the areas character and would not in principle result in any visual harm. Furthermore the proposal includes some varying designs, as well as features such as differing materials, bay windows, and chimneys, all of which help to soften the overall level of built form and allow it to assimilate well within the surroundings. Given this, and the acceptable use of materials, there are no objections with regards to the design of the dwellings.

With respect to the proposed layout, the dwellings are sited to the rear (south) of the existing built form along Thorpe Road. However, Officers also acknowledge the planning permission (and construction) of 110 dwellings sited adjacent to the east of the application site, which has previously set a precedent for this form of development in this location. Against this context the proposed layout is considered to be acceptable.

In addition, there is considered to be sufficient levels of private amenity space for both the new dwellings and for 185 Thorpe Road, thereby according with Policy LP4 which states amenity space should be of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of the dwelling and the character of the area.

As such, it is considered that the access, appearance, layout and scale of the proposed dwelling are acceptable and in line with policies of the adopted local plan.

3. Impacts 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.

Significant separation distances are being retained to the existing dwellings sited to the north of the site (approximately 50 metres), as well as to the new development to the east (approximately 75 metres). Given this, and the single storey nature of the properties, Officers do not consider that there will be harm to any existing amenities in respect of overlooking or the development appearing oppressive or resulting in loss of sunlight/daylight. In addition, while there will be a degree of noise disturbances to Numbers 185 and 187 Thorpe Road via the vehicular movements associated with the development, this is not considered to be a significant level of harm that would justify recommending a reason for refusal.

4. Trees and Landscape Impacts

The Council's Tree and Landscapes Officer has been consulted, and has stated the following:

"The application has been cleared and separated from the host property by new fencing. Some of the trees on the site and on adjacent land are afforded formal legal protection by means of Tendring District Council Tree Preservation Order 98/00019/TPO 185 Thorpe Road, Kirby Cross

In order to establish the extent of the constraint that the protected trees, and other trees are on the development potential of the land, to show their Root Protection Areas (RPA's) and to ensure that they are not harmed by the implementation of any development which may be granted permission the applicant provided a Tree Survey and Report with the outline planning application 19/01054/OUT. The report was in accordance with BS5837: 2012 Trees in relation to design, demolition and construction; Recommendations.

The information contained in the report makes provision for the retention and physical protection of all of the trees that are covered by the TPO.

As the site is set back from the highway any new soft landscaping will make only a moderate contribution to the public realm. Nevertheless new planting should be secured for its own sake and to enhance the appearance of the development for future residents of the development."

In light of the above position taken by the Council's Tree and Landscape officer, it is considered that no policy conflict arises in respect of trees and landscape impacts subject to a condition securing details of hard and soft landscaping and this reserved matters application be approved.

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 have been consulted and have raised no objections subject to a series of conditions. Conditions relating to the vehicular turning facility and the width of the access, however, were already included within the outline planning consent and are therefore not recommended to be duplicated within this planning application.

Furthermore, the Essex County Council Parking Standards (2009) set out the parking requirements for new development, and confirm that for residential properties of three bedrooms there should be two 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 site layout demonstrates this is achievable for all of the new dwellings.

6. Heritage Impacts

The application site is located near to a number of Listed Buildings. To the north-west is White Ladies, a Grade II Listed Building, while across the road to the north is 178 Thorpe Road and to the north-west Bluehouse Farmhouse, both of which are also Grade II listed.

Given the proposed development will be sited some distance apart from all of these buildings, will not be publically visible from the street scene, and will not harm any existing views of these protected buildings, there is considered to be a neutral impact to the setting of these buildings. The development therefore represents less than substantial harm to the nearby listed buildings, while there are public benefits of five dwellings at a time where the Council is unable to demonstrate a five year housing supply.

Other Considerations

Frinton and Walton Town Council have recommended refusal due to the proposal being a form of backland development with splays that reduce the garden area of the neighbouring property.

In response to this, the development being backland has been determined within the original outline planning consent which approved 5 dwellings on the same site, the quantum (number) of dwellings on site has been fixed by the outline consent, the impact to neighbours is addressed within the main body of the report above.

There has been one letter of support received, and one letter of observation which has raised concerns regarding the principle of five dwellings in this location as well as the impacts to neighbouring amenities.

In response to this, the principle of development was previously allowed within reference 19/01054/OUT, while the impact to neighbouring amenities is addressed within the main body of the report above.

Conclusion

In the absence of any material harm or policy conflict resulting from the reserved matters submission under consideration, the application is recommended for approval subject to conditions.

6. **Recommendation**

Approval.

7. **Conditions**

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

Drawing Numbers DB22003/001 (Location Plan), DB22003/005 (Block Plan & Landscaping), DB22002/101 (Plot 1), DB22002/102 (Plot 2), DB22002/103 (Plot 3), DB22002/104 (Plot 4), DB22002/105 (Plot 5), 001A (Drainage Strategy General Arrangement), 002A (Infiltration Construction Details), 003A (Collect & Clean Construction Details), and the documents titled 'Transport Statement', 'Preliminary Ecological Assessment' and 'Technical Note - Drainage Strategy'.

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

- 2 Prior to the occupation of the development the internal layout and off-street parking shall be provided in principle and accord with drawing number:

- DB22002/005 Block plan and landscaping

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

- 3 Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, shall be provided on both sides of each 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.

- 4 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.

- 5 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.

Reason: 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.

- 6 Prior to above ground works of the development hereby approved, a hard and soft landscaping scheme shall have first been submitted to and agreed in writing by the local planning authority, including details of any boundary treatment. Thereafter, the hard landscaping and boundary treatment shall be implemented in accordance with the details which may have been agreed prior to first occupation. Soft landscaping shall be implemented in accordance with the details which may have been approved in the first planting season following substantial completion of the development. Any species planted becoming diseased or dying within 3 years of planting shall be replaced to the satisfaction of the local planning authority.

Reason - In the interests of visual amenity, biodiversity enhancement and landscape protection.

- 7 The approved landscaping scheme 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 - In order to soften and mitigate the visual impact of the development.

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 Informatives:

1: 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

2: 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.

3: 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.

4: Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.