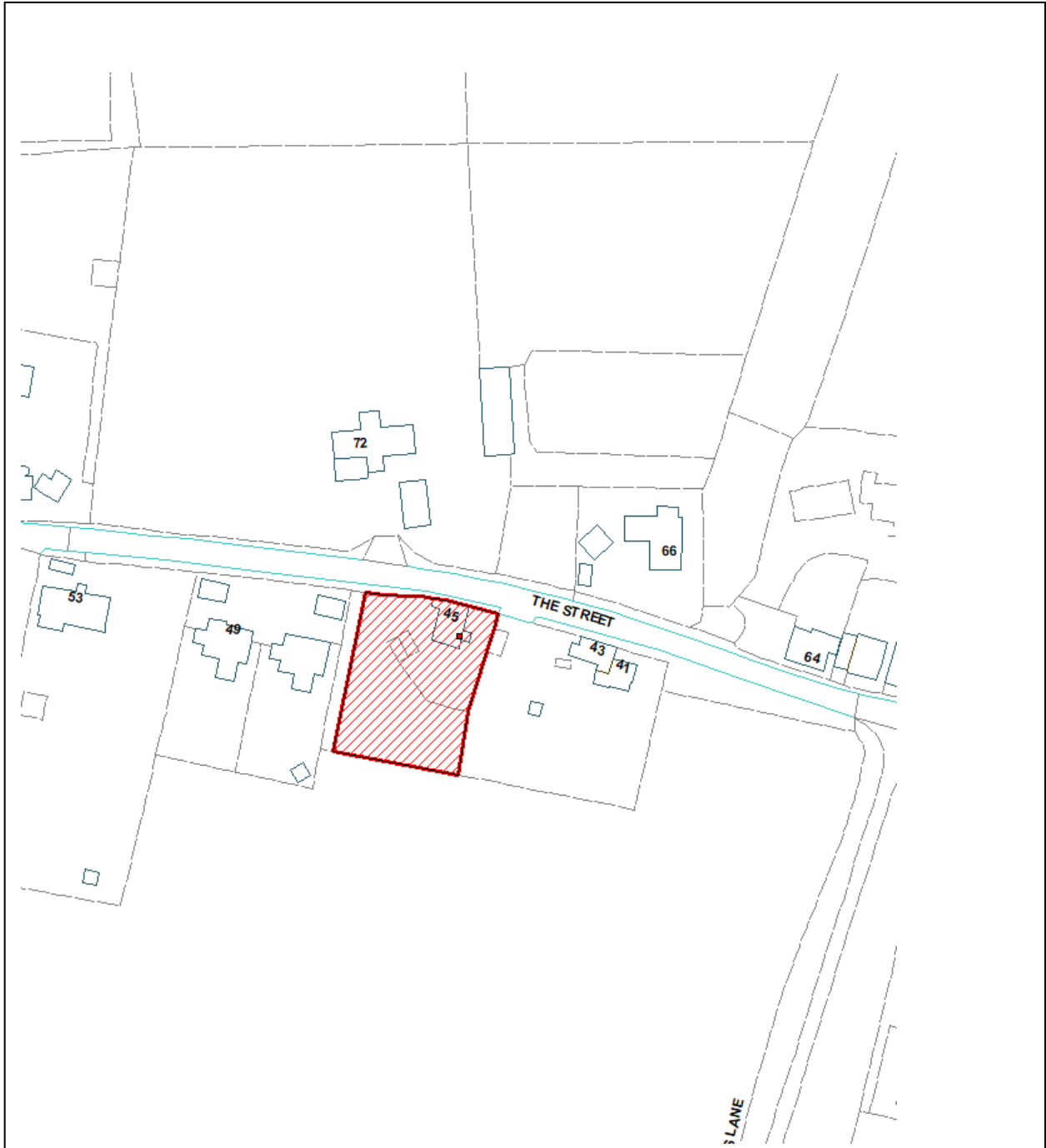


PLANNING COMMITTEE

14th March 2023

REPORT OF THE DIRECTOR OF PLANNING

A.4 PLANNING APPLICATION – 20/01125/OUT – 45 THE STREET KIRBY LE SOKEN FRINTON ON SEA CO13 0EG



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Application:	20/01125/OUT	Expiry Date:	16th October 2020
Case Officer:	Susanne Chapman-Ennos	EOT Date:	17th March 2023
Town/ Parish:	Frinton & Walton Town Council		
Applicant:	Mrs Brenda Derbyshire		
Address:	45 The Street Kirby Le Soken Frinton On Sea CO13 0EG		
Development:	Erection of 1 dwelling and provision of access. Parking for both the existing and proposed dwelling		

1. Executive Summary

Recommendation: Approval subject to S106

- 1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Director of Planning to secure the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:
 - A financial contribution of £137.71 (to be index linked) towards RAMS.
- 2) That the Director of Planning be authorised to grant outline consent upon completion of the legal agreement subject to conditions as stated in Section 8.2 (or as need to be varied) and those as may be deemed necessary by the Director of Planning.

2. Planning Policy

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

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

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

LP1 Housing Supply

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL8 Conservation Areas

CP1 Sustainable Transport and Accessibility

Supplementary Planning Documents

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

Kirby-Le-Soken Conservation Area Appraisal

Local Planning Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

Supplementary Planning Documents

Status of the Local Plan

2.2 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:

2.3 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').

2.4 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.

3. Relevant Planning History

05/00397/FUL	Change of use of land to rear of garden from paddock to garden land.	Approved	27.05.2005
20/01125/OUT	Erection of 1 dwelling and provision of access. Parking for both the existing and proposed dwelling	Current	

4. Consultations

4.1 Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.

4.2 All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

Tree & Landscape Officer

06.12.2022

Collectively the small trees and other vegetation on the application site make a pleasant contribution to the character and appearance of the locality however none of the trees on the land have such amenity value that they merit retention or formal legal protection by means of a Tendring District Council Tree Preservation Order

In terms of soft landscaping there appears to be limited scope for new planting however if planning permission were to be granted it would be desirable to secure some new planting in order to soften, screen and enhance the appearance of the completed development.

Essex County Council Heritage

06.01.2023

The current proposal positively moves forward from the original application by retaining the existing cottage at Number 45 The Street, which positively contributes to the character and appearance of the Conservation Area. The proposal also reduces the proposed built form to only 1 new dwelling to be set back from the main road and built on the site of the existing garages.

There are however still concerns about the use of an outline application to determine the

principle of development for this very tight site within the Conservation Area. Outline applications do not provide sufficient level of detail in order to assess the impact of the proposal on the character and appearance of the Conservation Area and on the important view along The Street towards the rural setting of Kirby Le Soken. As per Paragraph 206 of the NPPF, local planning authorities should look for opportunities for new development within Conservation Areas to enhance or better reveal their significance. An outline application does not provide sufficient information to assess whether the proposal offers a bespoke response to the historic context in terms of scale, design and materials.

Also, there is the potential that the proposed dwelling would block the view of the rural landscape which forms the mostly unchanged setting of Kirby Le-Soken and which can be seen from within the Conservation Area, contributing to an understanding of the village as an isolated rural settlement.

Should there be any permission for this site, I recommend this is via a detailed application.

UU Open Spaces

20.12.2022

There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby. No contribution is being requested from Open Spaces on this occasion.

Essex County Council Archaeology

08.12.2022

The above application is for the erection of 1 dwelling and provision of access. Parking for both the existing and proposed dwelling.

The Essex Historic Environment Record (HER) and Tendring Historic Environment Characterisation Project, demonstrate that the proposed development lies within the historic settlement of Kirby le Soken, which is protected as a Conservation Area. The existing building at 45 The Street is depicted on the 1st edition OS maps and so predates c.1870 and lies within a small, enclosed area along with house numbers 41 and 43. Recent excavations to the east have found evidence for medieval activity associated with the origins of the settlement at Kirby le Soken, along with sparse evidence for prehistoric and Roman activity.

The revised proposal is located back from the street frontage in an area currently used as garaging. The new dwelling will be in an area which has been previously disturbed in part and there will be limited impact to any archaeological deposits that may survive. On our present knowledge, therefore, it is unlikely that there will be a significant impact and no recommendations are being made on this application.

ECC Highways Dept

23.12.2022

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 B1034 The Street that is subject to a 30-mph speed limit. This proposal will see the cottage retained plus the introduction of one new dwelling sharing an existing access, parking, and turning area onto the B1034 The Street with the host dwelling, however:

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

The proposal would intensify the use of an existing access onto B1034 The Street (secondary

distributor) where visibility, from the proposed site access and forward visibility along B1034 The Street, is not in accordance with current safety standards. The main function of this highway is that of carrying traffic freely and safely between centres of population. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would lead to a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety.

The proposal is therefore contrary policies DM1, and DM3 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and National Planning Policy Framework 2021.

Informative

The existing access serves one dwelling and has available visibility of approximately 2.4 metres by 18 metres to the east (approach side) and no highway verge with only 0.5 metres at its narrowest point between the edge of the carriageway and the existing cottage on the inside of a bend (which further reduces visibility). To the west the verge is only 1.2 metres wide, and the visibility splay is restricted by existing street furniture located within the verge. The minimum visibility splay requirement for the vehicular access is 2.4 metres by 43 metres in both directions along The Street and these must be clear to ground and pass over land in the applicants control and or highway land. The existing vehicular access as submitted is unsuitable for intensification of use (to serve two dwellings).

5. **Representations**

- 5.1 Frinton and Walton Town Council recommend refusal of the application in line with comments made by the Historic Environment Team.

6. **Assessment**

Site Context

- 6.1 The application site is situated on the southern side of The Street, Kirby-Le-Soken and measures approximately 0.12 hectares in size. The site comprises of the existing dwelling (No. 45 The Street), which is a detached, rendered dwelling situated to the front of the site, close to the road. To the south-west of the existing dwelling is a detached, flat roofed, double garage.
- 6.2 The surrounding area comprises of a variety of dwellings of different sizes, scales, ages and architectural styles, although a cottage style rural vernacular dominates. To the east of the site is a semi-detached cottage style dwelling and to the west of the site lies two recently constructed detached dwellings with garages to the front. To the north on the opposite side of the road lies a large, detached dwelling listed building which was formally an agricultural barn.
- 6.3 The site lies outside of the defined Settlement Development Boundary for Kirby-Le-Soken within the adopted Local Plan 2013-2033 and falls with the Kirby-Le-Soken Conservation Area.

Proposal

- 6.4 This application seeks outline consent for the erection of one dwelling and the provision of access, plus the provision of parking for both the existing and proposed dwelling at 45 The Street, Kirby Le Soken.
- 6.5 The application is in outline form with all matters reserved, therefore matters such as layout, scale, appearance and access are reserved for a future application. However, an indicative

block plan has been submitted which shows a location for the proposed dwelling, the existing garage being demolished, a shared access for both dwellings and a parking and turning area.

Principle of Development

- 6.6 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the 1990 Town and Country Planning Act and section 38(6) of the Planning and Compulsory Purchase Act 2004). The development plan for Tendring Council comprises of the adopted Tendring District Local Plan 2013-2033 and Beyond Sections 1 and 2.
- 6.7 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 the defined settlement boundary of Kirby-Le-Soken within the adopted 2013-2033 Local Plan. The proposed development would therefore extend outside 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.
- 6.8 Policy SPL2 supports new development within defined Settlement Development Boundary's (SDB) which would encourage sustainable patterns of growth and carefully control urban sprawl. Within a defined SDB, 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.
- 6.9 The proposal therefore results in conflict with policies SP3 and SPL2. However, recent appeal decisions have concluded that the above policies do not specifically prevent the development of land outside of settlement boundaries, but clearly guide housing development to land within settlement boundaries.
- 6.10 Kirby-le-Soken is identified by Policy SPL1 as a Smaller Rural Settlement, it contains a range of services and can therefore sustain small scale growth. The site is located approximately 85 metres from the nearest settlement development boundary. The site is therefore considered to be in a sustainable location for residential development.

Impact on Conservation Area

- 6.11 The proposal site is within the Kirby Le Soken Conservation Area. The Street represents the Village Core of Kirby Le Soken, characterised by traditional vernacular buildings dating from the sixteenth to the nineteenth century, with long views towards the unchanged agrarian landscape to the North and South of the settlement.
- 6.12 The Local Planning Authority has a statutory duty to preserve or enhance the character and appearance of Kirby-Le-Soken Conservation Area under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.13 Policy PPL8 of the Tendring District Local Plan seeks to ensure that any new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area, especially in terms of any important views into, out of, or within the Conservation Area.
- 6.14 Essex County Council Heritage consider that as this application is in outline form that the application does not provide sufficient level of detail in order to assess the impact of the proposal on the character and appearance of the Conservation and on the important view along The Street towards the rural setting of Kirby Le Soken. They also comment that the existing dwelling positively contributes to the character and appearance of the Conservation

Area and raise concern that there is the potential that the proposed dwelling would block the view of the rural landscape which forms the mostly unchanged setting of Kirby Le-Soken and which can be seen from within the Conservation Area, contributing to an understanding of the village as an isolated rural settlement.

- 6.15 It is considered given that the existing building is being retained and there is a large, detached garage on the site, that some form of dwelling would be acceptable on the site the details of which need to be agreed as part of a future reserved matters application.
- 6.16 While the frustration of not knowing what the design itself may be and accordingly judgement on this point can not be made, being within a Conservation Area does not in law prevent the application made for Outline Permission. In terms of principle it is considered that a dwelling of some form can be developed on this site and this is not denied as a possibility in principle by the Heritage advice received. This may mean the dwelling may be limited in size and scale or needs to be carefully designed, but these elements and impact on the Conservation Area can be considered at that appropriate time. It is therefore considered at this stage that it is not necessary or reasonable to refuse the application on the basis of the impact on the character and appearance of the Conservation Area.

Layout, Scale and Appearance

- 6.17 Paragraph 126 of the NPPF states that 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.
- 6.18 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.
- 6.19 No elevational drawings are provided; however, it is considered that a dwelling of an appropriate design, scale and layout for the site could be agreed as part of the reserved matters application.
- 6.20 Furthermore, the existing dwelling and the proposed dwelling could be served by a private amenity space of a size and configuration that will appropriately meet the needs and expectations of the occupants and which is commensurate to the size of the dwelling and the character of the area, in accordance with Policy LP4 of the 2013-2033 Local Plan.

Highway Safety/Parking

- 6.21 Paragraph 108 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. Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.22 Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking. Adopted Local Plan Policy CP2 states proposals will not be granted planning

permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.

- 6.23 ECC Highways have been consulted on the application and recommend refusal as it is considered that the proposal would intensify the use of an existing access onto the B1034 (The Street), a secondary distributor road, where visibility is not in accordance with the current safety standards and therefore of detriment to highway safety.
- 6.24 The current access has visibility of approximately 2.4 metres by 18 metres to the east (approach side) and no highway verge with only 0.5 metres at its narrowest point between the edge of the carriageway and the existing cottage on the inside of a bend (which further reduces visibility). To the west the verge is only 1.2 metres wide, and the visibility splay is restricted by existing street furniture located within the verge. The minimum visibility splay requirement for the vehicular access is 2.4 metres by 43 metres in both directions along The Street and these must be clear to ground and pass over land in the applicants control and or highway land.
- 6.25 The comments from ECC Highways are noted, however, the site is currently served by two access points, both which have poor visibility and there is currently no turning facility within the site. This application seeks to remove the access located closer to the existing dwelling and provide a formal parking and turning area for existing and proposed dwelling. Therefore reducing the number of access points onto The Street, with poor visibility and enabling all cars to enter and exit the site in a forward gear. It is therefore considered that the proposal would have some benefit to highway safety and when balanced against the objection from ECC Highways would not be sufficient to warrant a reason for refusal.
- 6.26 The precise details of the access will be a matter for any future reserved matters application.

Residential Amenity

- 6.27 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.
- 6.28 While the application is in outline form and no elevational or floor layout plans have been provided. However, it is considered that within any future detailed planning application a dwelling could be constructed in such a way as to avoid significant harm to existing amenities of neighbouring properties.

Landscaping

- 6.29 Paragraph 174 of the National Planning Policy Framework (2021) states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside and should protect and enhance valued landscapes.
- 6.30 Policy PPL3 of the local plan requires that the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced. Any development which would significantly harm landscape character or quality will not be permitted.
- 6.31 The application site currently forms part of the residential curtilage of the host property and is set to grass with small trees and established shrubs. The boundary with the highway is

demarcated by a short section of hedging comprising of Shrubby Honeysuckle. The garden contains a small Walnut tree along with Maple, Eucalyptus and a range of decorative garden shrubs.

6.32 Collectively the small trees and other vegetation on the application site make a pleasant contribution to the character and appearance of the locality however none of the trees on the land have such amenity value that they merit retention or formal legal protection by means of a Tending District Council Tree Preservation Order

6.33 In terms of soft landscaping there appears to be limited scope for new planting however details of planting will be submitted as part of any future reserved matters application.

Drainage

6.34 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.

6.35 Paragraph: 020 of the National Planning Policy Guidance states that where a connection to a public sewage treatment plant is not feasible a package sewage treatment plant can be considered. The package sewage treatment plant must comply with the Small sewage discharges in England: general binding rules 2015 (GBR), or a permit will be required. Package sewage treatment plants may only be considered if it can be clearly demonstrated by the applicant that discharging into a public sewer is not feasible (taking into account cost and/or practicability and whether the package treatment plant poses a risk to a designated site) in accordance with Approved Document H of the Building Regulations 2010.

6.36 Adopted 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.

6.37 As the application is in outline form, it is not necessary for this information to be provided at this stage. However, a condition is recommended to ensure that details are provided prior to the first occupation of the dwelling hereby permitted.

Financial Contributions – Recreational Disturbance

6.38 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.

6.39 The application scheme proposes a residential use on a site that lies within the Zone of Influence (Zoi) being approximately 8.6km from Hamford Water RAMSAR and SPA. 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.

6.40 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.

Financial Contributions – Open Space and Play Space

6.41 Paragraph 54 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 56 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.

6.42 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 14.12 hectares of equipped play in Frinton, Walton & Kirby, however no contribution is requested on this occasion.

7. Conclusion

7.1 The site lies outside of the Settlement Development Boundary and therefore the development results in conflict with Policies SP3 and SPL2 of the Local Plan. However, recent appeal decisions have concluded that these policies do not specifically prevent the development of land outside of settlement boundaries but clearly guide housing development to land within settlement boundaries.

7.2 Notwithstanding the above, given the sustainable location of the site, the lack of any harm to the character and appearance of the surrounding area, highway safety and residential amenity, the application is on balance recommended for approval.

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a Section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS	£137.71 (index linked) to be paid prior to first occupation.

8.2 Conditions and Reasons

1. COMPLIANCE REQUIRED: TIME LIMIT FOR RESERVED MATTERS APPLICATION

CONDITION: Application for approval of all outstanding and the final reserved matters for any phase of the development must be made to the Local Planning Authority not later than the expiration of three years beginning with the date of this permission, and the development must be begun not later than the expiration of two years from the final approval of the reserved matters for the relevant phase or, in the case of approval on different dates, the final approval of the last such matter to be approved.

REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

The reserved matters need to be received by the Local Planning Authority within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If there is no phasing plan, this condition is considered to apply to the whole site as a single phase. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

2. APPROVAL OF RESERVED MATTERS

CONDITION: No development in any phase shall commence until approval of the details of:-

- the Appearance of the building(s) and place,
- Scale of the building(s),
- Layout of the building(s) and site,
- the means of Access,
- Landscaping

(hereinafter called "the reserved matters") for that particular phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and agreed order of phasing.

REASON: To enable the Local Planning Authority to secure an orderly and well designed development in accordance with the character and appearance of the neighbourhood and in accordance with the Development Plan. This condition is required to be agreed prior to the commencement of any development in accordance with proper planning principles to allow public engagement on the outstanding reserved matters and ensure no significant adverse harm results.

NOTE/S FOR CONDITION:

This condition requires approval of all reserved matters as may be listed to agreed in writing prior to any commencement of the approved development. Failure to comply with this condition may result in the permission becoming lapsed and unable to be carried out. If there is no phasing plan, this condition is considered to apply to the whole site as a single phase.

The reserved matters that may be listed above are further defined under government guidance as follows:-

ACCESS: The accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network

APPEARANCE: The aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.

LANDSCAPING: The treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or

provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features

LAYOUT: The way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.

SCALE: The height, width and length of each building proposed within the development in relation to its surroundings.

3. APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

Site Plan received 19th August 2020

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

4. FURTHER APPROVAL - CONSTRUCTION MANAGEMENT TO BE AGREED (PRE COMMENCEMENT)

CONDITION: Prior to the commencement of development details of the construction methodology and timetable shall be submitted to and approved, in writing, by the Local Planning Authority. This shall incorporate the following information:-

- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
- d) Details of any protection measures for footpaths and trees surrounding the site.
- e) Details of any means of access to the site during construction.
- f) Details of the scheduled timing/phasing of development for the overall construction period.
- g) Details of measures to control the emission of dust and dirt during construction, and including details of any wheel washing to be undertaken, management and location it is intended to take place.
- h) Details of the siting of any on site compounds and portaloos.
- i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- j) Site waste management plan (that shall include reuse and recycling of materials)
- k) Scheme for sustainable construction management to ensure effective water and energy use.
- l) Scheme of review of complaints from neighbours.
- m) Registration and details of a Considerate Constructors Scheme
- n) Details on the provision, location and management of any show home/s or reception, including opening times, parking and advertisements (including flags and directional signs).

The said methodology as may be approved shall be implemented in its entirety and shall operate as may be approved at all times during construction.

REASON: To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm on amenity.

NOTE/S FOR CONDITION:

You are strongly advised to discuss this condition with the Local Planning Authority and if possible/available local residents likely to be affected by this development prior to submission of details.

5. FURTHER APPROVAL - SURFACE AND FOUL WATER DRAINAGE DETAILS

CONDITION: Full details of surface and foul water drainage shall have been submitted to and approved, in writing, by the Local Planning Authority prior to the commencement of any works to the building/s it would serve. No part of the building/s shall be first occupied or brought into use until the agreed method of surface and foul water drainage has been fully installed and is functionally available for use for that building/s. The surface and foul water drainage scheme shall thereafter be maintained as approved.

REASON: To safeguard the ground water environment from harm and minimise the risk of flooding.

NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed prior to the commencement of works to the building/s approved. This condition is imposed to ensure the potential impact on a sensitive area is considered and harm avoided that may be detrimental to amenity and the environment.

6. AGREEMENT OF MEASURES TO IMPROVE SUSTAINABILITY OF DEVELOPMENT

CONDITION: Concurrent with the first reserved matter a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme such include as a minimum to achieve:-

- Agreement of provisions to ensure no more than 105 litres per person per day is used
- Agreement of carbon level
- Agreement of provisions to ensure the development is zero carbon ready
- An electric car charging points per dwelling
- A Water-butt per dwelling
- Compost bin per dwelling
- Agreement of heating of each dwelling/building
- Agreement of scheme for waste reduction

The scheme shall be fully implemented prior to the first occupancy of the development unless otherwise agreed in writing by the Local Planning Authority. The scheme shall be constructed and the measures provided and made available for use as may be agreed and thereafter shall be maintained.

REASON: To enhance the sustainability of the development through better use of water, energy and resources reduce harm to the environment and result in wider public benefit in accordance with the NPPF.

NOTE/S FOR CONDITION:

Slab level is normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

The greatest threat to our planet is the belief that someone else will save it and also forgetting that small acts, when multiplied by millions of people, can transform the world. Developments will provide buildings/homes to thousands/millions of people over their lifetime. A well designed sustainable development in the beginning will restrict the contribution each person makes to that threat and help enable them to transform the world.

8.3 Informatives

POSITIVE AND PROACTIVE STATEMENT

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

RECREATIONAL IMPACT MITIGATION

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to

grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

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