

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	02/03/2023
Planning Development Manager authorisation:	AN	02/03/23
Admin checks / despatch completed	ER	03/03/23
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	03/03/23

**Application:** 22/01342/FUL **Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mr Keith Jeeves

**Address:** The Rose 63 The Street Kirby Le Soken

**Development:** Proposed demolition of all buildings and structures on the site, the closure of the existing access, the construction of two 3 bedroom chalet-style bungalows and two double garages, formation of a new access and landscaping.

### **1. Town / Parish Council**

Mr FRINTON & WALTON  
TOWN COUNCIL

Recommends - Refusal - Conservation area doesn't add to it.  
On basis of access design loss of pitch. Highways say entrance unsafe needs splay places services not in keeping.

### **2. Consultation Responses**

ECC Highways Dept  
17.10.2022

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 previous site visit. The site is situated on The Street that is subject to a 30-MPH speed limit, just south-east of the de-restricted speed limit which starts from Walton Road.

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

The Highway Authority will protect the principal use of the highway as a right of free and safe passage of all highway users. The proposal would lead to the creation a substandard access onto The Street, (secondary distributor) where the lack of suitable visibility from the proposed access for both emerging and approaching vehicles would result in an unacceptable degree of hazard to all road users to the detriment of general highway safety and is not in accordance with current safety standards. The main function is that of carrying traffic safely and efficiently between substantial rural populations and on through routes in built up areas.

Overall parking and turning provision are considered to be inadequate for the dwellings as proposed. The proposal if permitted would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street

parking in the locality.

This would impact on the shared turning facility, and would lead to vehicles reversing onto The Street, an important secondary distributor route, which would result in an unacceptable degree of hazard for both emerging and approaching vehicles and to other highway users to the detriment of highway safety.

Due to the edge of village location and poor footway connectivity access to key facilities, public transport, employment, and leisure opportunities is limited and for the vast majority of journeys the only practical option would be the car. This should be taken into consideration by the Planning Authority when assessing the overall sustainability and acceptability of the site.

The proposal is therefore contrary to policy DM1, DM3, DM7, DM8 and DM9 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: The visibility splays in either direction should be measured from and along the nearside edge of the carriageway this is not the case on reviewing drawing no. 005A. To the north-west, of the proposed vehicular access a proposed visibility splay of 2.4m x 79.6m has been shown; this is situated close to the start of the de-restricted speed limit as you head west out of the village. It is likely that vehicles would be slowing on the approach to the bend as they enter the village, however there is no supporting information to determine this.

2: The Highway Authority may reconsider a revised proposal, where appropriate visibility is provided for the measured 85th percentile vehicle speeds, taken at the extent of the achievable visibility splays from the nearside kerb in both directions:

i. Speed surveys must be carried out in accordance with "CA 185 Vehicle Speed Measurement on All Purpose Roads". (A suitably qualified service provider with properly calibrated vehicle speed measuring equipment must carry out the survey.)

ii. The outcome of the speed survey would determine whether Design Manual for Roads and Bridges Standard (DMRB) or Manual for Streets (MfS) Standard would apply.

iii. To the east of the proposed access there does not appear to be a highway beyond the boundary of the plot, for that reason a Highway Boundary Plan should be obtained from ECC Highway Records to establish the line of the highway boundary to the front of the development site splay distance in both directions as measured from and along the nearside edge of the carriageway to establish whether or not the appropriate visibility splays can be achieved. Email address [Highway.Status@essexhighways.org](mailto:Highway.Status@essexhighways.org)

iv. The required vehicular visibility splays must be over land in the applicant's control and/ or within the publicly maintainable highway.

v. A Site Access as Proposed Layout Plan, shall be provided, which shows the appropriate clear to ground visibility splays in both directions with a minor or "X" distance of 2.4 metres by "Y" distance:

a. "Y" distance appropriate for vehicle speeds travelling along The Street on the approach to the proposed access (vehicles approaching from the east)

b. "Y" distance appropriate for vehicles travelling along The Street on the non-approach to the proposed access (vehicles approaching from the north-west) as determined from the outcome of

the speed survey for the measured 85th percentile speeds.

c. The location point of the speed measurement equipment for the visibility splay must be shown on a Site Layout Plan and the speed data must be appended.

Clearly if the applicant does commission additional work there is no guarantee that the required standards can be met or that the proposal will be acceptable to the Highway Authority.

Private Vehicular Access/ Drive:

3: As the private access is to be shared 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. It is currently shown as being at a width less than 4 metres.

4: Due to the layout and the shared turning area this will get used for parking impacting on the turning area preventing vehicles exiting in forward gear. The parking and turning is inadequate for the size of the dwellings that it's likely to lead to parking in the highway, in turn impacting on the visibility splay, not just for the proposed dwellings but existing dwellings in the vicinity, to the detriment of highway safety.

Again, as the drive is to be shared a minimum size 5 turning head should be provided to ensure vehicles can enter and leave in forward gear, alternatively, the applicant should submit a tracking diagram (swept path analysis) demonstrating that vehicles can manoeuvre on-site

Parking:

5: As highlighted above the proposal is for two 3-bed properties the double garages should have a minimum internal measurement of 7m x 5.5m, currently the drawing shows them having an internal measurement of 5.27m x 5.62m. To ensure each dwelling has at least three to four off-street parking spaces to protect the turning area.

Sustainability:

6: The edge of village location of the site and lack of highway verge/footway in the vicinity of the proposed site is such that access to key facilities, public transport, employment, and leisure opportunities is limited and for the vast majority of journeys the only practical option would be the car. This should be taken into consideration by the Planning Authority when assessing the overall sustainability and acceptability of the site.

Tree & Landscape Officer  
13.10.2022

The main body of the application site does not contain any trees or other significant vegetation. The boundary with the highway is demarcated by a 2m tall fence with hedging that partially screens the fence.

There is a single Ash (*Fraxinus excelsior*) at the north eastern end of the boundary with the highway and a small group of Elm (*Ulmus minor*) on the southern boundary adjacent to the open countryside to the south. The Ash is a reasonable specimen and makes a moderate contribution to the character and appearance of the area. The tree is shown as retained on the site layout plan.

The small group of Elm are likely to succumb to Dutch Elm Disease

(DED) in the next few years and are not considered to be a constraint on the development potential of the land

Although the site is technically constrained by Tendring District Council Tree Preservation Order 11/00040/TPO Land at The Street, Kirby le Soken the implementation of the extent planning consents has required the removal of virtually all of the trees on the site.

Consequently, other than the above-mentioned Ash, there are no trees on the site that significantly affect the development potential of the land.

Should planning permission be likely to be granted then a condition should be attached, to any such permission, to secure details of soft landscaping to soften, screen and enhance the appearance of the development

UU Open Spaces  
08.11.2022

Current Position

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

Recommendation

No contribution is being requested on this occasion, however should there be further development in the area a contribution may be required.

Gypsy and Traveller  
Services

No comments

Environmental Protection  
19.10.2022

Noise:

In order to minimise potential nuisance caused by demolition and construction works, the applicant (or their contractors) shall submit a full construction method statement. The statement shall include the following:

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

- The use of barriers to mitigate the impact of noisy operations will be used where possible.

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

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

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

- No materials produced as a result of the site development or clearance shall be burned on site. All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

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

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

Essex County Council  
Heritage  
31.10.2022

The application is for proposed demolition of all buildings and structures on the site, the closure of the existing access, the construction of two 3-bedroom bungalows and two double garages, formation of a new access and landscaping.

The proposal site is within the setting of the Kirby Le-Soken Conservation Area and marks the entrance to the Village Core from the West. The Village Core comprises traditional small vernacular buildings, typically 1.5 storey, dating from the sixteenth to the nineteenth century, lining The Street and bounded by taller hedgerows and grass verges, some fronting the road and others set slightly back. The mostly unchanged undeveloped and rural landscape is a defining feature of the Conservation Area's setting that has an important positive contribution to its significance and to the understanding and appreciation of the development of the historic settlement in an isolated and agrarian setting.

The site has a long planning history of refused applications for residential development of this area, including an outline application with all reserved matters for the construction of three chalet style bungalows under reference 19/01154/OUT. The subsequent appeal (APP/P1560/W/20/3245853) was dismissed, however the appointed Inspector stated that "(...) there is sufficient space on the site to accommodate the proposed 3 chaletstyle bungalows in a number of different layouts, and in a number of different detailed designs. There is also sufficient space on the site to provide suitable boundary screening and greater amounts of soft landscaping compared to the existing situation, which could mitigate the effect of the proposed 1 and a half storey dwellings on the wider landscape. Consequently, the proposal would not harm the character and appearance of the area and would preserve the setting of the Kirby-le-Soken Conservation Area (...)."

The Appeal decision established the principle of development for this site on heritage grounds. Therefore, the following comments would only refer to the site layout and design of the proposed dwellings.

The site is currently in use as a single traveller pitch and it is occupied by two mobile homes and associated outbuildings. While these are not of good design and material as required under Paragraph 206 and 197c of the NPPF within the setting of designated heritage assets, their limited size and the presence of vegetation along the boundary on The Street, makes them less prominent within the street scene and the views towards the Conservation Area.

The current proposal reduced the number of new dwellings to two 3 bedroom bungalows, however the proposed layout and design doesn't seem to take into account the local character.

The proposed buildings are larger in footprint and elevation than the previously proposed chalets, being effectively 2 storeys instead of 1.5, and result bulky in mass and prominent on the street- scene. Hipped roofs are not a common feature within this section of the Conservation Area and contribute to the bulky appearance of the proposed dwellings.

The roof is fitted on both elevations with a number of rooflights, a non-traditional type of fenestration which are not considered to be in keeping with the rural character of the setting of Kirby Le-Soken.

As per paragraph 206 of the NPPF, Local planning authorities should look for opportunities for new development within the setting of Conservation Areas to enhance or better reveal their significance. In their current iteration, the proposals are not considered to preserve those elements of the setting that make a positive contribution to the asset, or which better reveal its significance.

Furthermore the proposed fail to make a positive contribution to local character and distinctiveness, as set out in Paragraph 197c of the NPPF.

### 3. Planning History

13/00727/FUL	Change of use of land to include 1 no. pitch for a Romani Gypsy family and associated works including 1 no. dayroom, laying of new surfaces, new access and 1 no. septic tank.	Refused (Allowed at Appeal)	18.11.2013
14/01807/DISCON	Discharge of conditions 06 (vehicular access), 09 (drainage), 10 (vehicular turning facilities), 11 (off street parking), 12 (existing access), 13 (landscaping), 15 (foul and water drainage), 16 (storage of domestic refuse) and 17 (external lighting) of application 13/00727/FUL, approved at appeal APP/P1560/A/14/2215476.	Approved	30.01.2015
15/01937/FUL	Variation of Condition 5 of Appeal Decision APP/P1560/A/14/2215476 to facilitate the siting of one additional 1 No. mobile home and the erection of 1 No. stable building and the installation of hard standing.	Approved	24.03.2016
16/00886/DISCON	Discharge of Conditions 7 (Vehicular Turning Facility), 9 (Landscaping) and 14 (Tree	Approved	05.07.2016

	Protection) of planning permission 15/01937/FUL.		
18/00587/FUL	Extension of existing day room building by 4 metres.	Approved	25.06.2018
19/01154/OUT	Proposed 3no. three bedroom chalet style bungalows.	Refused (Dismissed at Appeal)	13.11.2019
21/00524/FUL	Proposed removal of stable block and rebuilding small barn with integral stable, tack room and horse box storage, carts and harness.	Approved	18.06.2021
22/01342/FUL	Proposed demolition of all buildings and structures on the site, the closure of the existing access, the construction of two 3 bedroom chalet-style bungalows and two double garages, formation of a new access and landscaping.	Current	

#### **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

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

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

LP2 Housing Choice

LP3 Housing Density and Standards  
LP4 Housing Layout  
LP9 Traveller Sites  
PPL3 The Rural Landscape  
PPL4 Biodiversity and Geodiversity  
PPL5 Water Conservation, Drainage and Sewerage  
PPL8 Conservation Areas  
PPL10 Renewable Energy Generation  
CP1 Sustainable Transport and Accessibility  
DI1 Infrastructure Delivery and Impact Mitigation

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 (including Site Description and Proposal)**



## Site Description

The application site is located at the far western point of Kirby Le Soken, less than a mile from Kirby Cross on the border of Frinton and 2 miles from Walton on the Naze. The site is outside the Kirby le Soken Settlement Development Boundary but adjacent to the Kirby-le-Soken Conservation Area. The site runs parallel with the outer curve of the main road and is bordered by a stream on its western boundary with a row of detached houses to the east.

Approximately 50m to the west on the opposite side of the road are more existing houses. Directly opposite; to the west and south are open fields. The garden of the property known as Ivy Cottage borders the eastern boundary. The site is currently in use as a single traveller's pitch and comprises of two static caravans, a tourer and associated dayroom and stable buildings. This is served by an existing vehicular access at the site's western end. The rest of the site is predominantly bare ground. The site frontage to The Street is marked by a 1.8m close boarded timber fence with metal access gates.

## Proposal

This application proposes the demolition of all buildings and structures on the site, the closure of the existing access, the construction of two 3-bedroom chalet-style bungalows and two double garages, formation of a new access and associated landscaping.

## Site History

In 2014 the application site was the subject of an appeal (Ref - APP/P1560/A/14/2215476) that was allowed to enable the siting of a single traveller's pitch and associated vehicular access. The site has since been the subject of several applications seeking to construct additional stable buildings and to site an additional static caravan.

In 2019 the application was the subject of an outline application for 3 no. detached bungalows. An appeal was subsequently lodged and dismissed by the planning inspectorate.

## Assessment

### Principle of Development

The site is currently in use as a single traveller's pitch which allows for two static caravans, a tourer and associated dayroom and stable buildings. This proposal relates to the construction of 2 detached residential properties on the site which are governed by a different set of national and local planning policies.

Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of a defined settlement boundary in the 2013-2033 Local Plan, with the nearest settlement of Kirby-le-Soken located approximately 320 metres to the east. The proposed development would therefore extend beyond the area planned to provide growth for this settlement.

Access from the site to the centre of the village is poor. It is a relatively long walk along a fairly busy and narrow road with no footpaths on either side. Furthermore, there are no bus stops easily accessible to the site and, in addition, the Kirby-le-Soken is in the lowest tier of four tiers of defined settlement in the 2013-2033 Local Plan and it only provides a limited range of facilities and services. Therefore, the site provides poor access to facilities and services, and it is likely that the vast majority of journeys to and from the site would be by car. Consequently, the site is in an unsuitable location for new dwellings, with inadequate access to local services.

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

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

### Design/Heritage Impacts

Paragraph 130 of the Framework 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.

Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Policy SPL3 of Section 2 of the 2013-33 Local Plan also requires, amongst other things, that the development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.

Adopted Policy PPL3 states the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance.

Policy PPL8 of the Tendring District Local Plan 2013-2033 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.

Paragraph 197 c) of the NPPF also outlines that local planning authorities should take into account the desirability of new development making a positive contribution to local character and distinctiveness.

The proposal site is within the setting of the Kirby Le-Soken Conservation Area and marks the entrance to the village from the west. The village comprises traditional small vernacular buildings, typically 1.5 storey, dating from the sixteenth to the nineteenth century, lining The Street and bounded by taller hedgerows and grass verges, some fronting the road and others set slightly back. The mostly unchanged undeveloped and rural landscape is a defining feature of the Conservation Area's setting that has an important positive contribution to its significance and to the understanding and appreciation of the development of the historic settlement in an isolated and agrarian setting.

The site has a planning history of refused applications for residential development of this area, including an outline application with all reserved matters for the construction of three chalet style bungalows under reference 19/01154/OUT. The subsequent appeal (APP/P1560/W/20/3245853) was dismissed, however the appointed Inspector stated that 'there is sufficient space on the site to accommodate the proposed 3 chalet style bungalows in a number of different layouts, and in a number of different detailed designs. There is also sufficient space on the site to provide suitable boundary screening and greater amounts of soft landscaping compared to the existing situation, which could mitigate the effect of the proposed 1 and a half storey dwellings on the wider landscape. Consequently, the proposal would not harm the character and appearance of the area and would preserve the setting of the Kirby-le-Soken Conservation Area'.

Consequently, the appeal decision established the principle of development for this site on heritage grounds. However, as this application includes the detailed design of the proposed properties an assessment of their design and impact upon the Conservation Area can now be carried out.

The site is currently in use as a single traveller pitch and it is occupied by two mobile homes and associated outbuildings. While these are not of good design and material as required under Paragraph 206 and 197c of the NPPF within the setting of designated heritage assets, their limited size and the presence of vegetation along the boundary on The Street, makes them less prominent within the street scene and the views towards the Conservation Area.

The proposed dwellings are large in footprint and elevation, being effectively 2 storeys instead of 1.5, and as a result are bulky in mass and would be overly prominent within the street scene. Moreover, hipped roofs are not a common feature within this section of the Conservation Area and contribute to the bulky appearance of the proposed dwellings.

Furthermore, the roof is fitted on both elevations with a number of rooflights, a non-traditional type of fenestration which are not considered to be in keeping with the rural character of the setting of Kirby Le-Soken.

As per paragraph 206 of the NPPF, Local planning authorities should look for opportunities for new development within the setting of Conservation Areas to enhance or better reveal their significance. In their current iteration, the proposals are not considered to preserve those elements of the setting that make a positive contribution to the asset, or which better reveal its significance.

Furthermore, the proposed fail to make a positive contribution to local character and distinctiveness, as set out in Paragraph 197c of the NPPF.

### Tree/Landscaping

The application site is affected by Tendring District Council Tree Preservation Order 11/40/TPO ' Land South of the Street, Kirby le Soken. At the time it was made the TPO afforded all of the trees on the land formal legal protection as 'woodland' TPO.

However, since the TPO was made, subsequent planning and appeal approvals have resulted in the removal of almost all of the trees on the land. In this respect the TPO no longer serves a useful purpose as there are no remaining trees that merit formal legal protection.

Notwithstanding, the outcome of this planning application the extant TPO will likely be 'revoked' in other words cancelled. The remaining trees on the land are not considered to be a constraint of the development potential of the application site.

### Residential Amenities

The NPPF, in paragraph 127 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) supports these objectives.

It is considered that the development achieves an internal layout and separation distances that would not detract from the amenities of any nearby dwellings or the future occupiers of the proposed dwellings and would provide private amenity areas to meet the standards set out within the adopted local plan and Essex Design Guide.

### Highway Considerations

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 County Council Highways have reviewed the information and object to the proposals for the following reasons;

The proposal would lead to the creation a substandard access onto The Street, (secondary distributor) where the lack of suitable visibility from the proposed access for both emerging and approaching vehicles would result in an unacceptable degree of hazard to all road users to the detriment of general highway safety and is not in accordance with current safety standards. The main function is that of carrying traffic safely and efficiently between substantial rural populations and on through routes in built up areas.

Overall parking and turning provision are considered to be inadequate for the dwellings as proposed. The proposal if permitted would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality. This would impact on the shared turning facility, and would lead to vehicles reversing onto The Street, an important secondary distributor route, which would result in an unacceptable degree of hazard for both emerging and approaching vehicles and to other highway users to the detriment of highway safety.

Moreover, the visibility splays in either direction should be measured from and along the nearside edge of the carriageway this is not the case on reviewing drawing no. 005A. To the north-west, of the proposed vehicular access a proposed visibility splay of 2.4m x 79.6m has been shown; this is situated close to the start of the de-restricted speed limit as you head west out of the village. As a consequence, the submitted information does not demonstrate that the proposed access can be afforded sufficient visibility splays, in the interests of highway safety.

#### Drainage

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

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.

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.

In relation to non-mains drainage from non-major development the Environment Agency's advice is that to comply with the Framework and PPG on foul drainage matters, an LPA needs to be satisfied that foul drainage can be provided without adverse impact on the environment. This requires ensuring that both those environmental risks outside of the control of the permit and the relevant considerations in the PPG are addressed. The LPA should also be mindful that the developer will need to address foul drainage matters to get their environmental permit and meet building control regulations. Therefore, they should be confident that it is likely that any necessary permits and approvals can be successfully obtained.

As part of the application a Foul Drainage Assessment Form has been provided which states that it is not intended to connect to a mains sewer. Instead, foul sewage will be disposed of by way of a package treatment plant; the declaration implies that a mains connection is not possible.

In considering the acceptability of the proposed non-mains drainage, the site is not located in close proximity to any dwelling, the site is not close to any designated site of importance to biodiversity, nor is it located within close proximity to any watercourse. The site is not located within a Drinking Water Safeguard Zone or a Source Protection Zone, and the site is sufficiently large enough to accommodate a soakaway. Furthermore, flows from a treatment plant serving two dwellings would be very low. Taking all these factors into account, and the absence of a mains connection in close proximity to the site, the proposed foul drainage arrangements are considered to be acceptable.

### Legal Obligations

#### POS

The Council's Open Spaces Team have confirmed that there is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby. However, due to the location of the site and the absence of any identified projects they have confirmed that no contribution is being requested on this occasion.

#### 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. The contribution is secured by unilateral undertaking.

The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zol) being approximately 1100 metres from Hamford Water SAC and SPA. Since the development is for 3 dwellings only, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

A completed unilateral undertaking has not been provided to secure this legal obligation. As submitted, there is no certainty that the development would not adversely affect the integrity of European Designated Sites and the application is therefore contrary to Policy PPL4 of the Adopted Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Should this be submitted with any appeal, this ground would not be defended.

### Other Considerations

Frinton & Walton Town Council recommends refusal for the following reasons;

- Outside settlement boundary.
- No footpath connection.
- Principals of development overruled.
- Subject to ECC Highway objection.
- Much needed travellers site.

- Application for 3 bungalows previously declined.
- Doesn't add to the Conservation Area.
- On basis of access and design and loss of pitch.
- Highways say entrance unsafe needs splay
- Places services state not in keeping

1 representation of support has been received with no supporting comments.

### Conclusion

The application will result in two additional dwellings, and it is accepted that there would be no harm to neighbouring amenities.

However, the application site falls outside of a settlement development boundary as agreed within the current Local Plan. Given this, and that the Council has a strong housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement, for these reasons the site is not suitable for new housing and therefore the principle of development is not accepted. Further, the development proposed fails to make a positive contribution to local character and distinctiveness, adversely impacts upon the setting of the adjacent Kirby-le-Soken Conservation Area and has attracted an objection from the Highway Authority on the grounds of highway safety. Given the above, the application is recommended for refusal.

## **6. Recommendation**

Refusal

## **7. Reasons for Refusal**

- 1 The site is currently in use as a single traveller's pitch which allows for two static caravans, a tourer and associated dayroom and stable buildings. This proposal relates to the construction of 2 detached residential properties on the site which are governed by a different set of national and local planning policies.

Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of a defined settlement boundary in the 2013-2033 Local Plan, with the nearest settlement of Kirby-le-Soken located approximately 320 metres to the east. The proposed development would therefore extend beyond the area planned to provide growth for this settlement.

Access from the site to the centre of the village is poor. It is a relatively long walk along a busy and narrow road with no footpaths on either side. Furthermore, there are no bus stops easily accessible to the site and, in addition, Kirby-le-Soken is in the lowest tier of four tiers of defined settlement in the 2013-2033 Local Plan and it only provides a limited range of facilities and services. Therefore, the site provides poor access to facilities and services, and it is likely that the vast majority of journeys to and from the site would be by car. Consequently, the site is in an unsuitable location for new dwellings, with inadequate access to local services.

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

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

- 2 Paragraph 130 of the Framework 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.

Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Policy SPL3 of Section 2 of the 2013-33 Local Plan also requires, amongst other things, that the development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.

Adopted Policy PPL3 states the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance.

Policy PPL8 of the Tendring District Local Plan 2013-2033 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.

Paragraph 197 c) of the NPPF also outlines that local planning authorities should take into account the desirability of new development making a positive contribution to local character and distinctiveness.

The proposal site is within the setting of the Kirby Le-Soken Conservation Area and marks the entrance to the village from the west. The village comprises traditional small vernacular buildings, typically 1.5 storey, dating from the sixteenth to the nineteenth century, lining The Street and bounded by taller hedgerows and grass verges, some fronting the road and others set slightly back.

The proposed dwellings are large in footprint and elevation, being effectively 2 storeys instead of 1.5, and as a result are bulky in mass and would be overly prominent within the street scene. Moreover, hipped roofs are not a common feature within this section of the Conservation Area and contribute to the bulky appearance of the proposed dwellings. Furthermore, the roof is fitted on both elevations with a number of rooflights, a non-traditional type of fenestration which are not considered to be in keeping with the rural character of the setting of Kirby Le-Soken.

As per paragraph 206 of the NPPF, Local planning authorities should look for opportunities for new development within the setting of Conservation Areas to enhance or better reveal their significance. In their current iteration, the proposals are not considered to preserve those elements of the setting that make a positive contribution to the asset, or which better reveal its significance.

The development would therefore fail to make a positive contribution to local character and distinctiveness, appear out of keeping in this edge of settlement location and harm views from within and into the adjacent Kirby-le-Soken Conservation Area. The development is therefore considered to be contrary to the aims and aspirations of the aforementioned national and local planning policies.

- 3 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.

From a highway and transportation perspective the impact of the proposal is not acceptable because the proposal would lead to the creation of a substandard access onto The Street, (secondary distributor) where the lack of suitable visibility from the proposed access for both emerging and approaching vehicles would result in an unacceptable degree of hazard to all road users to the detriment of general highway safety.

In addition, parking and turning provision are considered to be inadequate for the dwellings as proposed. The proposal would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality. This would impact on the shared turning facility, and would lead to vehicles reversing onto The Street, an important secondary distributor route, which would result in an unacceptable degree of hazard for both emerging and approaching vehicles and to other highway users to the detriment of highway safety.

Overall, the development would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety, and contrary to the above national and local planning policies.

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

The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 1100 metres from Hamford Water SAC 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.

A completed unilateral undertaking has not been provided to secure this legal obligation. As submitted, there is no certainty that the development would not adversely affect the integrity of European Designated Sites and the application is therefore contrary to Policy PPL4 of the Adopted Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

## **8. Informatives**

### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

### Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

- 21076/01 (Proposed Site Layout Plan)
- 006 (Garage Floor Plan and Elevations)
- 003 (Plot 1 - Front and Side Elevations)
- 002 (Plots 1 and 2 - Proposed First Floor Plan)
- 001 (Plots 1 and 2 - Proposed Ground Floor Plan)
- 008A (Plot 2 - Proposed Side and Rear Elevations)



- 004A (Plot 1 - Proposed Side and Rear Elevations)
- 007 (Plot 2 - Proposed Front and Side Elevations)
- 005 (Site and Block Plan)

<p><b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b></p>	<p>YES</p>	<p><b>NO</b></p>
<p><b>Are there any third parties to be informed of the decision? If so, please specify:</b></p>	<p>YES</p>	<p><b>NO</b></p>