

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	MP	04/09/23
Planning Manager / Team Leader authorisation:	ML	11/09/2023
Planning Technician final checks and despatch:	JJ	11/09/2023

Application: 23/00806/OUT **Town / Parish:** Frinton & Walton Town Council

Applicant: Fuller Enterprises (Graeme and Marcia Fuller)

Address: Foundry Yard Hall Lane Walton On The Naze

Development: Outline Planning Application (Scale to be considered) for the redevelopment of a vacant commercial site with 3 x two bed houses and 9 x two bed apartments.

1. Town / Parish Council

FRINTON AND WALTON TOWN COUCIL RECOMMENDED REFUSAL on the grounds of loss of commercial space B1 use.

2. Consultation Responses

Tree & Landscape Officer
09.08.2023 There are no trees or other significant vegetation situated in the main body of the application site.

On land adjacent to the northwestern corner of the application site there are several mature trees that are attractive features in their setting, they can be seen from the Public Right of Way to the north of the application site and make a reasonable contribution to the amenities of the locality.

The positions that the trees are growing is noted and their long-term retention may become an issue at some stage because of the juxtaposition with adjacent commercial buildings. Nevertheless, the trees are visually prominent and make a positive contribution to the appearance of the area.

To avoid harm being caused to the roots of the trees additional information will be required.

Whilst it may not be necessary for the applicant to provide a full Arboricultural Impact Assessment (AIA); details of root protection methods and specialist construction techniques should be provided either prior to the determination of the application or secured as a reserved matter relating to any planning permission that may be granted.

Essex County Council
Heritage
31.08.2023

The current scheme is similar to the proposed residential development which has been refused in 2022 under planning reference 22/00004/OUT. However, this proposal is not considered to overcome the main concerns raised within the previous planning process regarding the demolition of the existing buildings.

The proposal site is a non-designated asset and is recorded on the Essex HER as part of the industrial heritage with reference number 15312 - MEX1034244. The Foundry has been identified in 1997 survey Iron Foundries In Essex. Comparative survey of modern industrial sites and Monuments undertaken by Essex County Council Field Archaeology Group (FAG) for the Archaeological Advisory Group (AAG), of Essex County Council Planning Department. The Foundry has been assessed as Building or site of regional importance.

It should be noted that the inclusion in a Local List is not the only way a non-designated heritage asset can be identified within the planning process. As noted in Historic England Guidance Local Heritage Listing: Identifying and Conserving Local Heritage, existing sources of information like individual HERs are useful in identifying potential non-designated heritage assets. The NPPF emphasises the importance of HERs in providing the core of information needed for plan-making and individual planning decisions. HERs are unique repositories of information relating to landscapes, buildings, sites and artefacts. Their content underpins the identification, recording, protection and conservation of the local historic environment and the interpretation of historic environment designation and planning decisions.

Moreover, the Foundry can be assessed following Historic England commonly applied criteria for the suitability of assets for inclusion in a local heritage list:

Asset type: Industrial site

Age: The foundry was established by Robert Warner in 1873, as a branch of the London business of John Warner & Sons and it appears on the first edition Ordnance Survey map of 1874;

Rarity: It is the only Essex foundry to be established on the coast;

Architectural and Artistic Interest: The Foundry was built as a large integrated complex with docking facilities and internal tramway, however the extent of the surviving buildings and structure is now unknown;

Group Value: Broomfield Cottages in Hall Lane were built to accommodate staff, with a social centre, known as Crescent Hall, at the end of the row. This was converted in 1925 into the existing Baptist Church.

Archaeological Interest: Only fragments of the original works remain and many of the later buildings have been converted to light industrial uses. The navigation survives as a buried feature;

Historic Interest: The Foundry was the main source of employment in the town in the late 19th and early 20th centuries with between 150 and 300 people working there. They made everything, including material for the Indian Railways and were bell-founders for Queen Victoria, King Edward VII and King George V. John Warner also built Walton's East Terrace in 1835-36 and, at his own expense, the sea defence walls and three breakwaters.

Landmark Status: limited landmark status

It is noted that, at this stage, the applicant did not submit a measured survey and/or photographic survey of the existing buildings, as well as a condition report assessing that the existing buildings are beyond

repair. It is therefore not possible to fully understand the extent and the significance of the surviving historic fabric and the impact that any proposal would have on the significance of the non-designated heritage asset. This information is therefore considered necessary as part of this planning process and preliminary for the next steps.

The demolition of the existing buildings would likely involve the complete loss of the Foundry as a non-designated heritage asset. With regards to the NPPF, Paragraph 203 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Also, as per Paragraph 204, local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

Paragraph 205 adds that local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. This is also reiterated in the HER Full Report for this site under the voice Management: If threatened by major works, record RCHME level 2; this should include a block plan, detailed photography and textual synthesis. Prior to any proposed development the docking area should be evaluated and if the remains are of a sufficient quality to be preserved in situ.

It should be noted that the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

As suggested during the previous planning consultation, the site might offer the opportunity for a more sympathetic development by re-using and converting the existing industrial buildings into residential.

Anglian Water Services
Ltd
19.06.2023

We are unable to make an accurate assessment for the proposed development because no drainage strategy has been submitted with the application and therefore it is not clear where the applicant is proposing to connect to Anglian Water network.

Essex County Council
Archaeology
27.06.2023

The Historic Environment Advisor has identified the above application from the weekly list as having historic environment implications. The proposed outline planning application with all matters reserved with the exception of scale is for the redevelopment of a vacant commercial site with 3 x two bed houses and 9 x two bed apartments.

The site was assessed as part of an industrial heritage survey of Iron Foundries in Essex (Garwood, A. 1997) and is recorded on the Essex Historic Environment Record (EHER), the site is considered a non-designated heritage asset. The foundry was established by Robert Warner, son of John Warner, an iron founder from London. It appears on the first edition Ordnance Survey map of 1874 as three rectangular blocks arranged in series; the westernmost being the foundry. The works had its own private dock (Port Said) for the transportation of raw materials and finished products. A tramway was used to move heavy goods to and from the wharf, and within the foundry. Little remains of the original works due to post-war

development, at the time of the survey (1997) extant features included the manager's house, a time keeper's office surmounted by a wooden cupola and a pattern shop with rough cast concrete walls. Of the northern range only a linear single-storey building with gable ends survives, but fronting Hall Road is a large twin gable structure which post dates 1874.

The site represents the only Essex foundry to be established on the coast and was of major historic/technological importance being built as a large integrated complex with docking facilities and internal tramway.

NPPF paragraph 205 requires developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. A low level (Level 2) historic building record should be completed on the buildings proposed for demolition; this should include a block plan, detailed photography and textual synthesis.

The following conditions are recommended in line with the National Planning Policy Framework:

1. No demolition, conversion or alterations can commence until a programme of historic building recording has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.
2. The applicant will submit a historic buildings report for approval by the local planning authority and confirm deposition of a digital archive with the Archaeological Data Service (ADS).

A professional historic building specialist should undertake any fieldwork. A brief detailing the requirements can be produced from this office. The District Council should inform the applicant of the recommendation and its financial implications.

ECC Highways Dept
29.06.2023

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. It is noted that this application is similar to a previous application, 22/00004/OUT that the Highway Authority did not object to. The site is situated on Hall Lane (Secondary Distributor) that is subject to a 30-mph speed limit. The proposal would introduce a revised access onto Hall Lane. The Highway Authority would not deem the introduction of the proposal at this location to have a severe impact compared to the previous use of the site. The site is located within a residential area where there is good public transport links, the site offers adequate off-street parking and turning, considering these factors:

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

1. Prior to occupation of the development, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before

the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

Note: If the visibility splays are unachievable due to site or land control constraints the applicant will need to provide evidence by way of a speed survey that a relaxation in these requirements will not create a highway safety issue.

2. Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

3. As indicated on drawing no. 1291/SK01 and prior to occupation of the development a minimum size 5 vehicular turning facility, shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

4. As per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) 6 metres should be provided behind each parking space to allow for manoeuvring. Alternatively, the applicant should submit a tracking diagram (swept path analysis) demonstrating that vehicles can manoeuvre on-site.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

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

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

6. As indicated on drawing no. 1291/SK01 and prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

7. Prior to occupation of the development, the existing footway across the entire frontage of the site shall be widened to a minimum width of 2 metres and shall be provided entirely at the Developer's expense.

Reason: To make adequate provision within the highway for the continued safe passage of pedestrians in accordance with Policy DM1 as a result of the proposed development.

8. The public's rights and ease of passage over public footpath no.31 (Frinton and Walton_164) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

9. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator).

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

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

3: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

4: No permanent part of a development shall overhang the highway

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

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

ECC SuDS Consultee
13.07.2023

Thank you for your email of 15/06/23 which provides Essex County Council (ECC) with the opportunity to assess and advise on the proposed surface water drainage strategy for the aforementioned planning application.

As the Lead Local Flood Authority (LLFA) ECC provides advice on SuDS schemes for major developments. ECC have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council, and their appointed consultants, looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the documents which accompanied the planning application, we would recommend the issuing of a holding objection on the basis of the following:

The information provided does not allow us to assess the flood risk to the development. Please provide information as required within the ECC SuDS design guide:
<https://www.essexdesignguide.co.uk/suds/what-we-expect/>

We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below.

<https://www.essex.gov.uk/protecting-environment>

Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, ECC advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Should further correspondence be required, please contact the SuDS team directly using the below details.

Essex County Council
Ecology
12.07.2023

Summary

We have reviewed the Ecological Impact Assessment (Liz Lord Ecology, September 2022) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures.

The site falls within the evidenced recreational Zone of Influence (ZOI) of Essex Coast RAMs. Given the residential element of this development is relevant to the Essex Coast RAMS, the LPA will need to prepare a project level HRA Appropriate Assessment to secure a per dwelling tariff by a legal agreement for delivery of visitor management measures at the designated sites. This will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the designated Habitats sites.

We are satisfied that there is sufficient ecological information available for determination of this application.

This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Ecological Impact Assessment (Liz Lord Ecology, September 2022) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly nesting birds.

We also note that the Ecological Impact Assessment (Liz Lord Ecology, September 2022) identifies a day roost for Common Pipistrelle is present within Property 123 (a former Chip shop/flat). The LPA can consider that there is sufficient certainty to the likely

impacts on bats and, therefore, a mitigation licence must be applied for through Natural England and a copy of this licence should be secured by condition of any consent.

We also support the proposed reasonable biodiversity enhancements of one Sparrow terrace, two Starling boxes, and four bat boxes, which have been recommended by the Ecological Impact Assessment (Liz Lord Ecology, September 2022) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

In addition, the Ecological Impact Assessment (Liz Lord Ecology, September 2022) highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

- o Light levels should be as low as possible as required to fulfil the lighting need.
- o Warm White lights should be used at <3000k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- o The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
- o Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions

1. CONCURRENT WITH RESERVED MATTERS ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Liz Lord Ecology, September 2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife &

Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

2. CONCURRENT WITH RESERVED MATTERS PRIOR TO COMMENCEMENT OF ANY WORKS WHICH WILL IMPACT THE BREEDING / RESTING PLACE OF BATS: SUBMISSION OF A COPY OF THE EPS LICENCE FOR BATS

"Any works which will impact the breeding/resting place of bats, shall not in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence."

3. CONCURRENT WITH RESERVED MATTERS PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

"A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter."

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

And if any external lighting is proposed;

4. CONCURRENT WITH RESERVED MATTERS PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

"A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority."

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

Environmental Protection
23.06.2023

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

Construction Method Statement

I have reviewed the construction method statement and can confirm that it is acceptable for this type of development. It must be noted that the CMS must be complied with during the development of this site.

Contaminated Land

Environmental Protection agree with the applicants/agent's observations outlined in part 5.10 of the planning statement and confirm that:

It is recommended that prior to the commencement of the permitted development, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination.

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

Noise

Due to the close location of the development to industry, notably a scrap yard, it may be beneficial for the applicant to consider the design and layout of the building and garden spaces in line with the standards set out by the BS8233. If necessary, a noise survey (BS8233) shall be undertaken by a competent person for the proposed residential properties that are in close vicinity to the industrial units.

Arch. Liaison Off, Essex
Police
15.06.2023

The Essex Police Designing out Crime team welcomes the opportunity to make comment on planning application 23/00806/OUT.

The published documents have been studied and at this time, do not provide sufficient detail to allow an informed decision pursuant to the National Planning Policy Framework, sec 12, paragraph 127, (f) '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, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'.

We recognise that communities where safety and security has been addressed and 'designed in' at the earliest planning stages, will enhance the health and wellbeing of its residents. Perception of crime and fear of crime can be an influential factor in determining the

synergy and ongoing sustainability of a community. An integrated approach to crime prevention at an early stage is necessary to all significant components of its design, planning, and layout. Good design and early co-ordination, incorporating 'Crime Prevention Through Environmental Design' (CPTED), can avoid the conflicts that may be expensive or impossible to resolve once the construction is complete.

Security forms a key part of a sustainable and vibrant development and Essex Police considers that it is important that this site is designed incorporating the maximum achievable benefit of CPTED for which Secured by Design (SBD) is the preferred enabler, in this case Secured by Design ' Homes 2023.

SBD is the national official police security initiative that works to improve the security of building and their immediate surroundings to provide a safe and secure environment to help reduce the opportunities for crime and minimise the fear of crime, as referenced in the NPPF, 'Promoting Healthy and Safe Communities'.

Essex Police recommend that the developer seeks to achieve the Secured by Design - Homes (Gold) accreditation in respect of all relevant aspects of this proposed development. Achieving the award will demonstrate to residents that their security has been considered and incorporated "by design" to the current approved, and therefore proven effective, standard.

We would welcome the opportunity to consult with the developer to provide a safe and secure environment for this development and would invite them to contact us via designingoutcrime@essex.police.uk.

UU Open Spaces
29.06.2023

Public Realm Assessment

Play Space - current deficit:

-Deficit of 14.61 hectares of equipped play in Frinton, Walton & Kirby

Formal Play - current deficit:

-Adequate formal open space in the area to cope with some future development

Settlement provision:

-Bathhouse Meadow LEAP 0.3 miles from the development

-Jubilee Playing Fields 0.4 miles from the development

Officer Conclusions and Recommendations

Contribution necessary, related, and reasonable?
to comply with CIL Regs*

-YES - Due to the significant lack of play facilities in the area, a contribution towards play is justified and relevant to the planning application. The contribution will be used to make improvements to the ball court at Bathhouse Meadow. Whilst there has been an increase of play provision at this site in recent years, it has been identified that the current ball courts require updating. There is a growing need for this type of facility in Walton. The intention is to resurface both courts with a sports surface to encourage the use of all sports. Whilst we understand that a contribution from this development will not fund the project completely, it can be added to some current contributions.

Identified project*:

(In consultation with Town / Parish Council on upcoming projects or needs for maintenance)

-Installation of new sports surface to two ball courts, in excess of £50k .

-New fencing to the ball courts in excess of £25k.

ECC Green Infrastructure
05.07.2023

Thank you for your email which provides Essex County Council (ECC) with the opportunity to assess and advise on the proposed landscape and green infrastructure (GI) strategy/plans for the aforementioned planning application.

ECC currently provides advice on green infrastructure schemes (GI) for major developments. ECC have been consultees on GI since 2018. Although there are no statutory requirements for GI, the 25 Year Environment Plan and Environment Act (2021) place significant importance on protecting and enhancing GI, accessibility and biodiversity net gain.

In providing advice we look to ensure that adequate provision, protection and improvements of high-quality GI comply with the objectives and planning principles set out in the following documents:

- Local Planning Authorities (LPA) Green Infrastructure Strategy/ SPD or equivalent green and open space strategies provides further guidance on the LPA's Local Development Plan policies regarding the Council's approach to green infrastructure provision in the local authority area.

- Essex Green Infrastructure Strategy, 2020, aims to enhance the urban and rural environment, through creating connected multi-functional GI that delivers multiple benefits to people and wildlife. It meets the County Council's aspirations to improve GI and green spaces in our towns, city and villages, especially close to areas of deprivation.

- Essex Green Infrastructure Standards, 2022, provide clear guidance on the requirements on both planning policy and planning application and processes.

ECC GI position

Having reviewed the Planning Design and Access Statement, EIA, Construction Method Statement, and the associated documents which accompanied the planning application, we do not object to the granting of (23/00806/OUT) based on the following:

Sustainable Design and Green Infrastructure

ECCs GI team support a strategy that seeks to maximise opportunity for habitat retention and enhancement. To ensure the integration of nature into development, ECCs GI team recommends sustainable design is explored. ECCs GI team recommends consideration of the following: -

- Green Roofs/Walls: The provision of these features allow ecosystems to function and deliver their services by connecting urban, peri-urban and rural areas. Alongside biodiversity habitat creation, green roofs and walls can provide water storage capacity, flood alleviation and energy saving potential. In addition to buildings, these features can be provided on sustainable transport infrastructure (such as on bus stop/ cycle storage facilities).

- Wildlife Bricks: The provision of wildlife bricks creates habitats for invertebrates.
- Dual street furniture/seating (i.e., a bench including a planter): The design of the street furniture and bin stores can contribute to the landscape character, reduce clutter of an area or street and act as a green corridor/link to the wider landscape scale GI network.

The ECC GI team recommends that the Essex Green Infrastructure Strategy and Essex GI Standards are consulted, and that green infrastructure assets are implemented into the design and development. We recommend the scheme should include but not be limited to:

- The development should be designed to deliver Biodiversity Net Gain and wider environmental net gains, that forms an important component of nature recovery networks and the wider landscape scale GI network.
- Travel Infrastructure should give consideration to use of GI features to ensure accessibility across the site.
- Ensure there are good accessible links for all from the development to existing settlements, urban centres, rural areas, active travel networks and green spaces.
- Tree Planting should be undertaken on site wherever possible. There are opportunities to work with the Essex Forest Initiative to assist. (environment@essex.gov.uk)

Reason:

GI and its connectivity are to be at the heart of decision making at every stage in the planning and design process for all developments from the outset, thus GI is integral to place shaping. Planning and design of GI will ensure individual building, street, neighbourhood and landscape scale intervention features contribute to a coherent, meaningful and practical network of high-quality and multi-functional GI, that will provide multiple environment, social and economic benefits within the development and wider area. By ensuring good early design in light of the local context and including local policy context, the GI will more effectively meet local priorities and needs.

The National Planning Policy Framework 2021 paragraph 8c sets environmental protection and enhancement as one of the 3 objectives of the planning system. We recommend that GI is utilised within the brownfield site, and the following conditions are added to ensure the establishment, maintenance and stewardship of the GI assets.

Condition 1

The ECC GI team recommends that no development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a Construction Environmental Management Plan (CEMP). Ideally, strategic elements of the GI framework are brought forward in phase one of the development, to create a landscape structure or evidence is shown that substantive GI is secured as early as possible in initial phases of delivery to allow early establishment. Therefore, a Construction Environmental Management Plan (CEMP) will be required to set out how retained GI, such as trees, hedges, and vegetation, will be protected during construction. This also includes setting out how GI assets adjacent to the development proposal will be protected, such as the mature oak and mature cherry tree as highlighted in paragraph 4.9 of the EIA.

Reason:

The phased implementation of new GI of the development construction will allow for the GI to mature and it will provide further benefit of reducing/buffering the aesthetic impact from the construction work.

Condition 2

No development shall take place until there has been submitted to and approved, in writing, by SuDS and landscape specialists at the Local Planning Authority a landscape ecological management and maintenance plan and work schedule for a minimum of 10 years.

Details should include who is responsible for GI assets (including any surface water drainage system) and the maintenance activities/frequencies.

We would also expect details on how management company services for the maintenance of GI assets and green spaces shall be funded and managed for the lifetime of the development to be included.

Reason:

To ensure appropriate management and maintenance arrangements and funding mechanisms are put in place to maintain high-quality value and benefits of the GI assets.

Failure to provide the above required information before commencement of works may result in reducing the value of the development, becoming an undesirable place to live that may increase the impacts from climate change, such as flood risk or air pollution from the site.

Condition 3

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason:

To ensure the GI are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure the high-quality and multi-functional benefits of GI assets.

Any questions raised within this response should be directed to the applicant and the response should be provided to the Essex GI Team for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

Further Recommendations

Essex Climate Action Commission's Climate Focus Area

The aforementioned planning application is situated within the Essex Climate Action Commission's (ECAC) recommended Climate Focus Area (CFA), which is formed of the Blackwater and Colne River catchment areas (please see Figure 1 for further details). The objective of this recommendation is for the CFA to "accelerate [climate] action and provide exemplars, for learning and innovation: adopting Sustainable Land stewardship practices: 100% by 2030 and Natural Green Infrastructure: 30% by 2030" (ECAC, 2021). Among the objectives of the CFA are to achieve net zero carbon, biodiversity net gain, improve soil health and air quality, reduce flooding and urban heat island effect, and enhance amenity, liveability and wellbeing of Essex communities. It will achieve this by wholesale landscape change in rural areas and urban areas and it will look to developments to contribute to these targets. Figure 1: Map of ECACs Climate Focus Area

INFORMATIVES:

- Any GI features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- It is not within the scope of the GI team to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- We will advise on the acceptability of green infrastructure and the information submitted on planning applications based on the key documents listed within this letter. However any relevant information relating to green infrastructure submitted as part of any previous applications should be submitted with the updated information.
- The GI consultation responses provide a high-level review of the proposals onsite. However the relevant specialists e.g ecology and landscape specialists should still be consulted on the information submitted. It should be noted that detailed discharge of condition applications should be referred to technical specialists rather than the GI planning team.
- Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

Please note: This letter is advisory and should only be considered as the opinion formed by specialist staff in relation to this particular matter.

3. Planning History

91/00937/FUL	Reconstruction and alteration of industrial unit.	Approved	29.10.1991
90/00015/FUL	Change of use from retail warehouse to office and light industrial (wood machinists, upholstery and refinishing and joinery).	Refused	25.04.1990

22/00004/OUT

Proposed outline planning application with all matters reserved with the exception of scale for the redevelopment of a vacant commercial site with 3 x two bed houses and 9 x two bed apartments.

Refused

27.05.2022

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)

SP3 Spatial Strategy for North Essex

SP4 Meeting Housing Needs

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

DI1 Infrastructure Delivery and Impact Mitigation

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PP6 Employment Sites

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) 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.

Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

5. Officer Appraisal

Site Description

The application site, which measures 0.2 hectares, is located to the north-western section of Hall Lane within the parish of Walton-on-the-Naze. The site comprises a former industrial building (foundry) and related buildings including a series of lock-up units and a fish & chip shop with a flat above. All of the buildings are now vacant except for one small lock-up which is used by the applicant as their occasional office.

The character of the immediate surrounding area is largely urban in nature, with predominantly commercial buildings to the west and residential properties to the east and south. Further out to the north and west the character becomes more rural, with large areas of grassed land and the Walton Backwaters.

The site falls within the Settlement Development Boundary of Walton-on-the-Naze, as identified within the Adopted Tendring District Council 2013-2033 and Beyond Local Plan. The application site is also designated as an employment site and within an area prioritised for regeneration within the recently adopted local plan.

Site History

In May 2022 under reference 22/00004/OUT, planning permission was refused on this site for the redevelopment of the commercial site for a total of 12 dwellings (3 x 2 bedroom houses and 9 x 2 bedroom apartments). This was because the application failed to demonstrate or justify the loss of a site allocated for employment purposes, and that the site also included a non-designated heritage asset and insufficient information had been provided to demonstrate that all other potential solutions to total demolition, including partial or total retention, had been fully investigated. In addition, the application was not accompanied by a Preliminary Ecological Assessment and a legal agreement had not been agreed for contributions towards Open Space and RAMS.

Description of Proposal

This planning application again seeks outline planning permission for the redevelopment of the commercial site for a total of 12 dwellings (3 x 2 bedroom houses and 9 x 2 bedroom apartments). The application is with all matters reserved with the exception of scale.

The differences between the current application and that determined within 22/00004/OUT are that the submission now includes an Ecological Impact Assessment, and commentary relating to the site not being able to be allocated as a non-designated heritage asset.

Assessment

1. Principle of Development

The application site falls within the settlement development boundary for Walton-on-the-Naze within the Adopted Local Plan. Adopted Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local plan policies.

As such, at an overarching high level, the principle of residential development on the site is acceptable however this does not take into account material considerations such as specific allocation etc, so this position is reached subject to the detailed considerations relevant to this proposal which are set out below.

2. Loss of Employment Use

Policy PP14 (Priority Areas for Regeneration) of the Adopted Local Plan identifies Walton-on-the-Naze as a priority area for regeneration. The policy states these areas will be a focus for investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.

Policy PP6 (Employment Sites) of the Adopted Local Plan seeks to protect existing employment sites, and states the following for the conversion of such sites into non-employment uses:

Proposals for non-employment uses on these sites will only be permitted if:

a) it can be demonstrated that the land or premises have become inherently unsuitable for any form of employment use and there is clear and robust evidence of appropriate marketing with registered commercial agents at a reasonable price to demonstrate no realistic prospect for continued employment use; or

b) the alternative use will either facilitate or result in wider economic regeneration benefits that outweigh the loss of employment land or premises on the protected site for existing or potential employment use; or

c) The alternative use will ease or resolve demonstrable longstanding and otherwise irresolvable harmful conflicts between land uses.

The application site is designated as an employment site within the adopted local plan, and as such it must be adequately demonstrated that either of the above criterion are satisfied.

For point a) evidence has not been provided to demonstrate why the buildings are not inherently suitable for any form of employment use. Paragraph 5.1 of the Planning Statement states the site has been vacant for 27 years (with the exception of the fish & chip shop/flat and the applicants small office) and the premises are in a very poor condition, with structural and maintenance issues having contributed to its decline. It adds that the buildings are incapable of use, which reflects not only the condition but the size/constructional nature of the foundry building, which it is argued is not suitable for modern commercial purposes. However, there is no evidence put before Officers to justify these claims, and the Local Planning Authority itself has no evidence that suggests or illustrates that the site is unsuitable for any form of employment use. In addition, no evidence of an appropriate marketing campaign has been provided, with Paragraph 5.4 of the supporting Planning Statement stating that as the applicants have no intention of selling the site and the buildings are inherently unsuitable for commercial purposes other than as a foundry, there is limited opportunity to undertake the required marketing. This policy criterion is therefore not met.

For point b) the application submission has stated that the proposal, through visual improvements and using funds to improve the existing site, will result in regeneration benefits for Walton, which as highlighted above is identified as a priority area for regeneration. However, whilst point b) does not specifically seek visual improvements, the applicant has put forward this argument and Officers believe that it may be achievable to achieve contextual visual enhancements to the existing buildings through employment uses as well as non-employment uses; even though it is not a specific requirement under point b) of the policy. There is also no evidence provided by the applicant that demonstrates this option has been explored. In any case, while it is acknowledged that the site is protected for employment uses, Officers are not persuaded that the improvements to the site (which have not been evidenced) would outweigh the loss of an allocated employment site. This criterion is therefore not met.

At Paragraph 5.5 of the supporting Planning Statement, reference is made to the proposal being an enabling form of development to secure the future of the estate and in turn rejuvenate many of the site's buildings. However, insufficient information has been provided to demonstrate why this proposal is required at this scale to regenerate the remainder of the site, and also no details have been provided to show precisely how any funds generated would contribute to improving the wider site. In the absence of such evidence and supporting information little to no weight can be given to this assertion from the applicant.

In addition, in assessing the proposed development against Policy PP14, the proposed residential use will not result in improved vitality, social inclusion, economic prospects, education, health, community safety, accessibility or green infrastructure. There is a small case to be made that it would result in improved environmental quality in terms of reduced noise pollution given the loss of the commercial use, however the loss of a non-designated heritage asset would outweigh this small gain. Therefore, in summary, Officers do not consider that the proposal as a whole correlates with

the requirements of this policy, particularly at such a time as when the Council can demonstrate a healthy five year housing land supply.

For point c) no evidence has been provided to demonstrate that there are longstanding issues and otherwise irresolvable harmful conflicts between land uses, and that the development as proposed would resolve this. This criterion is therefore not met.

Given the above, the information submitted has failed to demonstrate how any of the above criterion are met, and accordingly has failed to demonstrate that the loss of this allocated employment site is acceptable, thereby failing to accord with Policy PP6.

3. Affordable Housing

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

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

The application proposes an additional 12 new dwellings, however, would also result in the loss of the flat sited above the fish and chip shop, and therefore there will be a net gain of 11 dwellings.

Within the supporting Planning Statement, it is claimed that as the site is occupied by substantial commercial buildings which are redundant, the provisions of the Vacant Building Credit apply.

Paragraph 026 (reference ID: 23b-026-20190315) of the National Planning Policy Guidance (NPPG) states that where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought.

Paragraph 027 (Reference ID: 23b-027-20190315) of the NPPG states that where there is an overall increase in floorspace in the proposed development, the local planning authority should calculate the amount of affordable housing contributions required from the development as set out in their Local Plan. A 'credit' should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation. This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided.

The existing floorspace of a vacant building should be credited against the floorspace of the new development. For example, where a building with a gross floorspace of 8,000 square metre building is demolished as part of a proposed development with a gross floorspace of 10,000 square metres, any affordable housing contribution should be a fifth of what would normally be sought.

In this case the site contains significant vacant commercial buildings, which the supporting Planning Statement and plans confirm amount to a total of 859sqm floor area. The proposed residential development would extend to 870sqm. The following calculation is therefore applicable:-

Total sqm residential = 870sqm

Total sqm divided by number of residential units (to calculate average unit size) = 72sqm

Size of existing building = 859sqm

$870 - 859 \div 72 = 0.15$ units which at 30% = 0.04 affordable/social units.

When applying Vacant Building Credit, the affordable or social housing requirement is for 0.04 units to be provided. Therefore, on this occasion no affordable housing contribution is required.

4. Heritage Impacts

Paragraph 198 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Paragraph 203 of the NPPF says the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 204 confirms local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

The proposed site was considered to have the potential to be a non-designated asset and as such Essex County Council Place Services Heritage have been consulted, and have stated the following:

"The current scheme is similar to the proposed residential development which has been refused in 2022 under planning reference 22/00004/OUT. However, this proposal is not considered to overcome the main concerns raised within the previous planning process regarding the demolition of the existing buildings.

The proposal site is a non-designated asset and is recorded on the Essex HER as part of the industrial heritage with reference number 15312 - MEX1034244. The Foundry has been identified in 1997 survey Iron Foundries In Essex. Comparative survey of modern industrial sites and Monuments undertaken by Essex County Council Field Archaeology Group (FAG) for the Archaeological Advisory Group (AAG), of Essex County Council Planning Department. The Foundry has been assessed as Building or site of regional importance.

It should be noted that the inclusion in a Local List is not the only way a non-designated heritage asset can be identified within the planning process. As noted in Historic England Guidance Local Heritage Listing: Identifying and Conserving Local Heritage, existing sources of information like individual HERs are useful in identifying potential non-designated heritage assets. The NPPF emphasises the importance of HERs in providing the core of information needed for plan-making and individual planning decisions. HERs are unique repositories of information relating to landscapes, buildings, sites and artefacts. Their content underpins the identification, recording, protection and conservation of the local historic environment and the interpretation of historic environment designation and planning decisions.

Moreover, the Foundry can be assessed following Historic England commonly applied criteria for the suitability of assets for inclusion in a local heritage list:

Asset type: Industrial site

Age: The foundry was established by Robert Warner in 1873, as a branch of the London business of John Warner & Sons and it appears on the first edition Ordnance Survey map of 1874;

Rarity: It is the only Essex foundry to be established on the coast;

Architectural and Artistic Interest: The Foundry was built as a large integrated complex with docking facilities and internal tramway, however the extent of the surviving buildings and structure is now unknown;

Group Value: Broomfield Cottages in Hall Lane were built to accommodate staff, with a social centre, known as Crescent Hall, at the end of the row. This was converted in 1925 into the existing Baptist Church.

Archaeological Interest: Only fragments of the original works remain and many of the later buildings have been converted to light industrial uses. The navigation survives as a buried feature;

Historic Interest: The Foundry was the main source of employment in the town in the late 19th and early 20th centuries with between 150 and 300 people working there. They made everything, including material for the Indian Railways and were bell-founders for Queen Victoria, King Edward VII and King George V. John Warner also built Walton's East Terrace in 1835-36 and, at his own expense, the sea defence walls and three breakwaters.

Landmark Status: limited landmark status

It is noted that, at this stage, the applicant did not submit a measured survey and/or photographic survey of the existing buildings, as well as a condition report assessing that the existing buildings are beyond repair. It is therefore not possible to fully understand the extent and the significance of the surviving historic fabric and the impact that any proposal would have on the significance of the non-designated heritage asset. This information is therefore considered necessary as part of this planning process and preliminary for the next steps.

The demolition of the existing buildings would likely involve the complete loss of the Foundry as a non-designated heritage asset. With regards to the NPPF, Paragraph 203 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Also, as per Paragraph 204, local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

Paragraph 205 adds that local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. This is also reiterated in the HER Full Report for this site under the voice Management: If threatened by major works, record RCHME level 2; this should include a block plan, detailed photography and textual synthesis. Prior to any proposed development the docking area should be evaluated and if the remains are of a sufficient quality to be preserved in situ.

It should be noted that the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

As suggested during the previous planning consultation, the site might offer the opportunity for a more sympathetic development by re-using and converting the existing industrial buildings into residential."

Accordingly, applying a balanced judgement, it is concluded that the proposed development would result in the complete loss of a non-designated heritage asset, and while residential use may be the optimum viable use for the site, the application has not provided sufficient evidence to demonstrate that all other options, which may include part or total retention of the buildings, have been investigated.

It is noted within the applicant's supporting statement that reference is made to an appeal decision (reference APP/P1560/W/20/3265745 - 2 & 3 Tendring Road, Thorpe-le-Soken, dated 13th September 2021) for the demolition of two houses and erection of five bungalows, which is claimed to conclude that in the absence of a defined Local List a Council cannot simply define a building as an asset. However, following a review of the highlighted appeal decision, it is noted the Inspector states the following:

"The Council states that Nos 2 and 3, is considered to be a non-designated heritage asset (NDHA). This does not of itself demonstrate that the building is designated as such. I have no evidence before me of the building being identified as a NDHA on any local list held by the Council nor have I been provided with any evidence to demonstrate that the pair of cottages has been identified in a Neighbourhood Plan as a building to be locally listed."

"Given the advice set out in the PPG and in the absence of any substantive evidence demonstrating that the building has been suitably judged against published criteria, I do not consider that the age

of the building combined with the extent of its identified, or potentially identified, architectural details amount to sufficient justification for the building to qualify as a NDHA. I therefore consider the proposed demolition of Nos 2 and 3 in the context of character and appearance elsewhere in my decision."

In addition, reference is made to advice provided for Historic England, with claims that the determination of the previous application was inconsistent with this advice.

While the above comments are noted, on this occasion ECC Place Services have outlined that the building is a non-designated heritage asset on the basis that it is recorded on the Essex Historic Environment Record (HER) as part of the industrial heritage, while further justification has been provided assessed against the criterion contained within Section 2 of "Local Heritage Listing: Identifying and Conserving Local Heritage" (prepared by Historic England), which assesses the suitability of assets for inclusion in a local heritage list. Given this, while the comments contained within the Planning Statement are noted, for the reasons outlined within the comments provided by ECC Place Services (Heritage) the concerns raised within the previous application are maintained.

5. Visual Impacts

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

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

The application is in outline form with all matters reserved bar the scale of the development. However, it is clear from the submitted information that the application would result in the demolition of the foundry building and other associated buildings including the fish and chip shop building. The indicative plans outline that these would be replaced with two separate three storey buildings constructed of red brick and slate tile, which would reduce to two storeys towards the rear of the site and are separated by a new access road. The indicative design appears to be acceptable in this location and would likely be supported at any reserved matters stage.

The key consideration of this application is with regards to the scale of the properties. It is acknowledged that there are no three storey properties within the surrounding area, but it must equally be noted that the foundry building itself is of a similar height to that proposed. Against this context, it is not considered that the proposed scale would be of such harm that it would warrant recommending a reason for refusal.

6. Impact to Neighbouring Amenities

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

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

The residential properties most likely to be impacted by the proposal are Numbers 113 and 115 Hall Lane to the south, and Number 127 Hall Lane to the north.

In terms of the impacts to the south-facing neighbours, the two and three storey properties are located in close proximity and could therefore appear imposing. However, a key consideration is that

the baseline position is the foundry building is in situ and is of a similar size to that being proposed. Given this, and that part of the adjacent area will be served by amenity space on the indicative layout, thereby representing a slight improvement, the impacts are considered to be acceptable. The indicative floor layouts also suggest no first or second floor side elevation windows that would directly overlook private amenity area, while the rear facing windows will not have views into private amenity space.

With regards to the impacts to the north-facing neighbour, again the proposed development is located within close proximity. The impacts of the three-storey design are slightly increased given the existing properties in this location are two storey. However, the indicative street scene demonstrates that the proposal can be achieved without significantly increasing the height. In addition, the buildings themselves are slightly set away, with an area of amenity space and a cycle/refuse store separating the proposal from the existing dwelling, which aids in reducing the impacts in terms of the proposal appearing imposing. The indicative floor layouts again suggest no first or second floor side elevation windows that would directly overlook private amenity area from the apartments facing Hall Lane, while the rear facing windows will not have views into private amenity space. The dwellings located further within the site are set back a significant distance, thereby reducing any potential overlooking concerns.

Therefore, there is not significant identified harm from the proposed scale that would warrant a reason for refusal in terms of impacts to neighbouring amenities. The indicative layout also would be acceptable but would be agreed within any future reserved matters application.

7. Ecology

Paragraph 174(d) of the National Planning Policy Framework (2021) states that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 180(a) of the NPPF adds that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Adopted Policy PPL4 (Biodiversity and Geodiversity) states that as a minimum, there should be no significant impacts upon any protected species, including European Protected Species and schemes should consider the preservation, restoration or re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations.

Within the previous application on this site, a refusal reason centred around the lack of a Preliminary Ecological Assessment, and it was therefore not possible to make an informed decision on the wellbeing of protected species in this location.

To address this, the current application is accompanied by a Preliminary Ecological Assessment. Essex County Council Place Services Ecology have been consulted, and they have confirmed they are satisfied there is sufficient ecological information available for determination of this application and raise no objections subject to the inclusion of conditions. On this basis, Officers no longer raise an objection in this regard.

8. Landscape/Trees

The Councils Tree and Landscape Officer has been consulted on the application, and has stated the following:

“There are no trees or other significant vegetation situated in the main body of the application site.

On land adjacent to the north-western corner of the application site there are several mature trees that are attractive features in their setting, they can be seen from the Public Right of Way to the north of the application site and make a reasonable contribution to the amenities of the locality.

The positions that the trees are growing is noted and their long-term retention may become an issue at some stage because of the juxtaposition with adjacent commercial buildings. Nevertheless, the trees are visually prominent and make a positive contribution to the appearance of the area.

To avoid harm being caused to the roots of the trees additional information will be required.

Whilst it may not be necessary for the applicant to provide a full Arboricultural Impact Assessment (AIA); details of root protection methods and specialist construction techniques should be provided either prior to the determination of the application or secured as a reserved matter relating to any planning permission that may be granted."

Therefore, within any future reserved matters application, it would be expected that it would be accompanied by an Arboricultural Impact Assessment, but otherwise no objections.

9. Highways Impacts

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

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

Essex Highways Authority have been consulted and have confirmed they have no objections subject to conditions relating to visibility splays, pedestrian visibility splays, a vehicular turning facility, 6 metres retained behind each parking space to allow for manoeuvring, the use of no unbound materials, the width of the access, the widening of the footway, the public's rights and ease of passage over the public footpath, and the submission of a Residential Travel Information Pack.

Furthermore, the Essex County Council Parking Standards (2009) set out the parking requirements for new development and confirm that for residential properties of two bedrooms or more there should be two parking spaces measuring a minimum of 5.5 metres x 2.9 metres or, if being used as one of the parking spaces, a garage should measure a minimum of 7 metres x 3 metres. The submitted information indicates provision for 16 parking spaces, including one disabled parking space. While this does not meet the above requirements, the site's sustainable location in walking distance to nearby facilities must also be taken into consideration, and therefore on balance the provision is acceptable on this occasion.

10. Drainage

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

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

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

11. Financial Contributions - Open Space and RAMS

(i) Open Space

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

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

The proposal will result in a net increase of 11 dwellings. 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 14.61 hectares of equipped play in Frinton, Walton and Kirby, and a contribution towards play facilities is justified and relevant to this planning application, which would be used towards improvements to the ball court at Bathhouse Meadow, specifically the installation of a new sports surface to two ball courts and new fencing to the ball courts. A contribution towards improving these facilities in accordance with the Council's Open Space and Play SPD has therefore been recommended.

Given the identified deficit in equipped play in Frinton, Walton and Kirby, the nature of the housing proposed and its proximity to the site, it is considered that a contribution towards the aforementioned improvements at Bathhouse Meadow would be necessary to make the development acceptable in planning terms. The contribution would relate fairly and reasonably in scale and kind to the development proposed, and the statutory tests under Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) would therefore be met. However, a completed unilateral undertaking to secure the above-mentioned planning obligation has not been provided and the application is therefore contrary to the above-mentioned policies.

(ii) Habitat Regulations Assessment

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

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately being approximately 335 metres away from Hamford Water RAMSAR and SAC. 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.

12. Renewable and Energy Conservation Measures

Paragraph 112 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.

Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.

The proposal includes for a development that has the potential to incorporate renewable energy features. The application is supported by a statement that includes a range of efficiency measures, and therefore on this occasion it would not be necessary to include a planning condition requesting such details.

13. SuDS

Officers note that Essex SuDS have raised a holding objection as the information provided does not allow them to assess the flood risk to the development. However, on this occasion Officers equally acknowledge that the site falls within Flood Zone 1 and is not within an area at risk of surface water flooding. Given this, the site is not at risk of flooding, and it is also allocated for employment purposes within the adopted Local Plan. Taking this into account, while the consultee comments are noted it would not be reasonable to raise an objection on this basis.

Other Considerations

The applicant is a member of staff at Tendring District Council, and within the previous application the agent for the application queried whether this results in the application needing to be determined by the Planning Committee. However, the Council's Constitution, at Part 3.15(v), states that this is only applicable if "the applicant is a Member of the Council, Planning Officer or a Senior Officer and there is an Officer recommendation for approval." Given the applicant is not a Member of the Council, Planning Officer or a Senior Officer, and the application is recommended for refusal in any case, the item has been determined by Officers.

Frinton and Walton Town Council recommend refusal on the grounds that the proposal will result in the loss of commercial space. In response to this, this is addressed within the main body of the report above.

In addition, one further letter has been received that states that while overall it is a good use and design, some concerns are raised in relation to impact to neighbours, impact to trees and a lack of details regarding street lighting.

In answer to this neighbour and tree impacts are addressed within the main body of the report above, while no street lighting is proposed as part of the application.

Conclusion

This outline application provides a development of an acceptable scale that would not significantly harm neighbouring amenities. Other matters such as detailed design, landscape and appearance are reserved for future consideration. Essex Highways Authority offer no objections, and sufficient parking is provided, and following the submission of a Preliminary Ecological Assessment, ECC Ecology also offer no objections.

However, justification for the loss of the employment units, which are allocated for employment use within the recently adopted local plan has not been adequately demonstrated. An argument has been put forward that the proposal would result in regeneration benefits for a site identified as a priority area for regeneration, however at a time when the Council can identify a healthy five-year housing land supply, and in the absence of the evidence mentioned above, this would not be

achieved through new housing. In any case it is also not considered the proposal adheres with the requirements of Policy PP14.

In addition, concerns are also raised with regards to the loss of a non-designated heritage asset, with inadequate information provided to demonstrate that all alternative options were looked at. Consequently, the application is not considered to be compliant with local and national planning policies and is therefore recommended for refusal.

6. Recommendation

Refusal.

7. Reasons for Refusal

- 1 Paragraph 203 of the National Planning Policy Framework 2023 (NPPF 2023) says the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Policy PP6 (Employment Sites) states that proposals for non-employment uses on these sites will only be permitted if:

- a) it can be demonstrated that the land or premises have become inherently unsuitable for any form of employment use and there is clear and robust evidence of appropriate marketing with registered commercial agents at a reasonable price to demonstrate no realistic prospect for continued employment use; or
- b) the alternative use will either facilitate or result in wider economic regeneration benefits that outweigh the loss of employment land or premises on the protected site for existing or potential employment use; or
- c) The alternative use will ease or resolve demonstrable longstanding and otherwise irresolvable harmful conflicts between land uses.

The information submitted with the application has failed to demonstrate or justify the loss of a site allocated for employment purposes within the Adopted Local Plan. The site also includes a non-designated heritage asset, and insufficient information has been provided to demonstrate that all other potential solutions to total demolition, including partial or total retention, have been fully investigated. The proposal is therefore contrary to the above local planning policies and paragraph 203 of the NPPF 2023.

- 2 Paragraph 55 of the National Planning Policy Framework (2023) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 57 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

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

There is currently a deficit of 14.61 hectares of equipped play in Frinton, Walton and Kirby, and a contribution towards play facilities is justified and relevant to this planning application, which would be used towards improvements to the ball court at Bathhouse Meadow, Walton,

specifically the installation of a new sports surface to two ball courts and new fencing to the ball courts.

A completed unilateral undertaking to secure the above-mentioned planning obligation has not been provided and the application is therefore contrary to the above-mentioned policies and paragraphs 55 and 57 of the NPPF (2023).

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

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately 335 metres away from Hamford Water RAMSAR and SAC. 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):

The untitled Site Location Plan received 9th June 2023, Drawing Numbers 1291/SK01, 1291/SK02, 1291/SK03, 1291/SK04A, and the documents titled 'Construction Method Statement', 'Ecological Impact Assessment', 'Water, energy and resource efficiency measures' and 'Electric Vehicle Charging'.