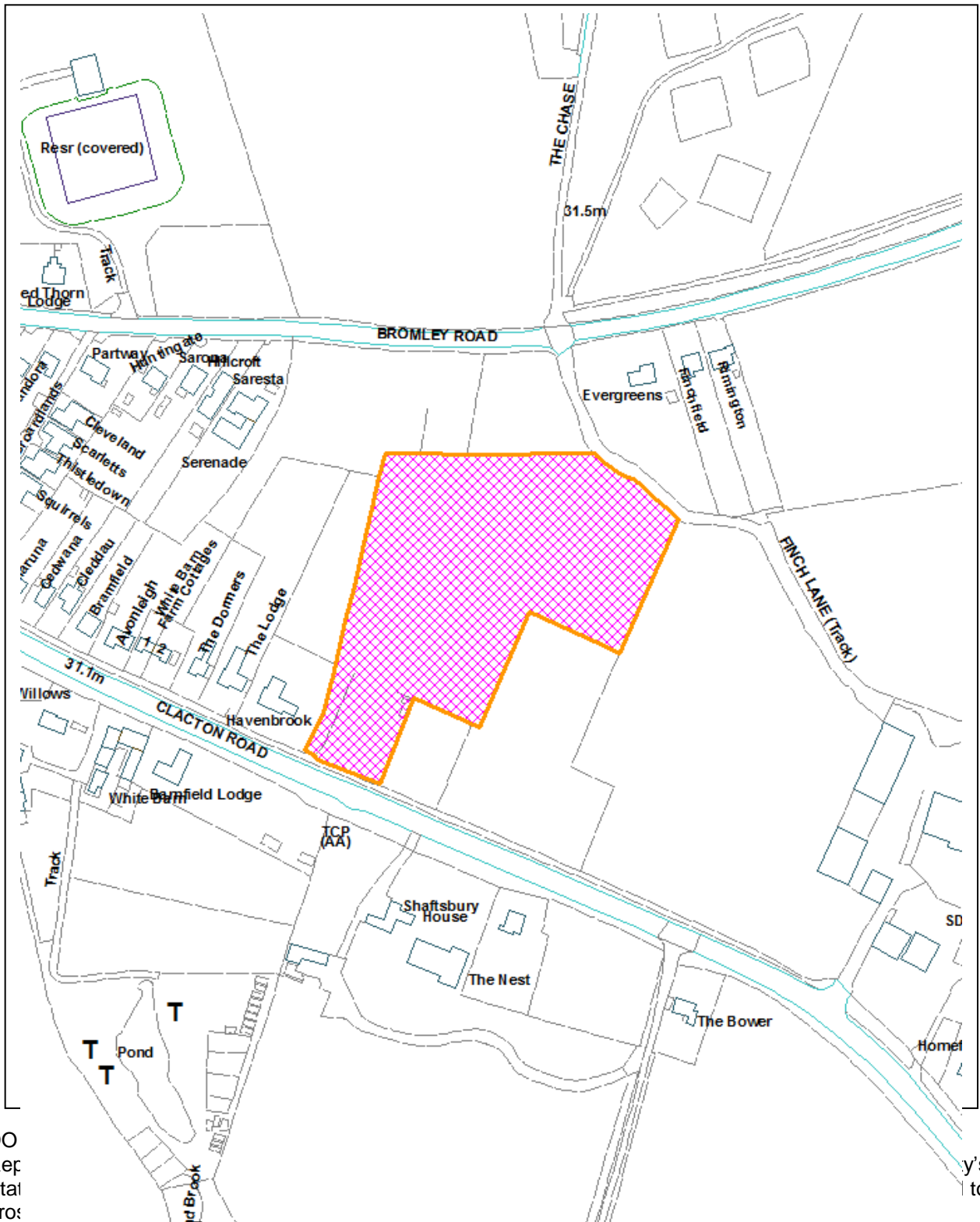


PLANNING COMMITTEE

28 JULY 2015

REPORT OF THE HEAD OF PLANNING

**A.3 PLANNING APPLICATION - 15/00675/OUT - LAND OFF CLACTON ROAD, ELMSTEAD, CO7 7DB**



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<b>Application:</b>	15/00675/OUT	<b>Town / Parish:</b> Elmstead Market Parish Council
<b>Applicant:</b>	Mr Oliver Hookway - Go Homes	
<b>Address:</b>	Land off Clacton Road Elmstead CO7 7DB	
<b>Development:</b>	Residential development of up to 32 dwellings (incorporating 25% affordable housing) with associated open space and infrastructure.	

## 1. Executive Summary

- 1.1 The application was received on 5th May 2015 and is due for determination by 5th August 2015. As an outline application, approval is being sought only for the principle of developing up to 32 dwellings with associated open space and infrastructure, with all other matters reserved for approval through a detailed application at a later date. The applicant has however submitted supporting information that demonstrates how an acceptable scheme of detached and semi-detached properties could be achieved on the site in question.
- 1.2 The site comprises just under 2 hectares of predominantly undeveloped shrubland at the eastern end of the village of Elmstead Market, north of Clacton Road. It lies outside of the settlement development boundaries, as defined in both the Council's adopted and emerging Local Plans. However, because the Council is currently unable to identify a five-year supply of deliverable housing sites along with a 20% 'buffer', as required by the National Planning Policy Framework, the Council's housing policies are out of date and Officers have had to consider the application on its merits in line with the government's 'presumption in favour of sustainable development'.
- 1.3 Elmstead Market is one of the district's 'Key Rural Service Centres' which is served by a reasonable range of shops, services, facilities and infrastructure, where a proportionate level of housing development could be considered sustainable, subject to addressing relevant technical matters such as highways, landscape and visual impact and infrastructure capacity.
- 1.4 The proposal has not attracted any comments from individual members of the public but Elmstead Parish Council has written in objection to highlight a number of concerns relating mainly to the cumulative impact of further housing development on local infrastructure and the impact on the character of the village. There are no outstanding objections from any of the statutory consultees or other technical bodies.
- 1.5 The Highways Authority has no objection to the scheme subject to conditions and the Education Authority has no objection subject to securing a financial contribution toward early years and child care and primary school provision. Anglian Water has no objection to the scheme and the concerns that Essex County Council originally had in relation to drainage have now been resolved. TDC Officers advising on open space, housing, environmental health and trees and landscapes have commented on the application and have no objections to the proposal subject to appropriate conditions or legal agreements being put in place to secure an appropriate level of Council/affordable housing, to secure long-term maintenance for the proposed open space and to retain and enhance important trees and landscape features.
- 1.6 Despite its location at the eastern extremities of the village, the site is very well contained within the landscape and the visual and landscape impact of the development is expected to be low. The site has low to intermediate ecological value and development can take

place without any adverse impact on important trees. Proximity to the nearby Bottles Hall and potential noise disturbance to the occupiers of the new properties has been considered, but the potential impacts are not considered significant enough to justify the refusal of outline planning permission.

- 1.7 The cumulative impact of this development alongside other residential and mixed-use schemes for Elmstead Market (and potential infill development on adjoining land that might come forward in the future) has also been considered. Even if all schemes are successful in obtaining planning permission, the total volume of development is not considered to be disproportionate or excessive for Elmstead Market, particularly when set against the context of the projected need for housing for the whole district. So long as the infrastructure requirements arising from the developments can be addressed and each scheme can be designed and delivered in a sympathetic manner, the cumulative impact is considered to be acceptable.
- 1.8 The applicant has undertaken public consultation in the village with an exhibition being held on 23<sup>rd</sup> June 2015. A Statement of Community Involvement has been submitted to outline the findings of the consultation which suggests limited public interest in this proposal.
- 1.9 The indicative layout submitted by the applicant demonstrates that a scheme of 32 dwellings could be accommodated on the site in an appropriate manner with no materially adverse visual impact on the character or appearance of the village or any issues in complying with well-established urban design and secured-by-design principles.
- 1.10 Officers consider that the proposal satisfies the three dimensions of 'sustainable development' as set out in national planning policy (economic, social and environmental) and the application is therefore recommended for approval subject to the satisfactory completion of a Section 106 planning obligation to secure affordable housing, public open space, play provision and a financial contribution toward educational facilities to make the development acceptable, as well as a number of planning conditions.

**Recommendation: Approval**

That the Head of Planning be authorised to grant planning permission for the development subject to:-

a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):

- On-site Council Housing/Affordable Housing;
- Education contribution;
- Contribution toward play provision; and
- Completion and transfer of public open space

b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning in their discretion considers appropriate).

(i) Conditions:

1. Standard 3 year time limit for submission of reserved matters application.
2. Standard 2 year limit for commencement of development following approval of reserved matters.
3. Details of appearance, access, layout, scale and landscaping (the reserved matters).

4. Layout and phasing plan/programme. .
5. Development in accordance with submitted concept/parameter plans.
6. Development to contain up to (but no more than) 32 dwellings.
7. Highways conditions (as recommended by the Highway Authority).
8. Parking to be in line with adopted Parking Standards.
9. Surface water drainage scheme.
10. Hard and soft landscaping plan/implementation.
11. Ecological mitigation/tree protection measures.
12. Details of lighting, materials and refuse storage/collection points.
13. Broadband connection.
14. Local employment arrangements.
15. Details of water, energy and resource efficiency measures.

c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

## **2. Planning Policy**

### **National Planning Policy Framework (NPPF)**

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused - unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
  - an economic role;
  - a social role; and
  - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In anyone year, Councils must be able to identify five years worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

## Local Plan

- 2.5 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the 'development plan' unless material considerations indicate otherwise. In the case of Tendring the development plan consist of the following:

**Tendring District Local Plan (Adopted November 2007)** - as 'saved' through a Direction from the Secretary of State.

Relevant policies include:

### QL1: Spatial Strategy

Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries.

### QL2: Promoting Transport Choice

Requires developments to be located and designed to avoid reliance on the use of the private car.

### QL3: Minimising and Managing Flood Risk

Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

### QL9: Design of New Development

Provides general criteria against which the design of new development will be judged.

### QL10: Designing New Development to Meet Functional Needs

Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

### QL11: Environmental Impacts

Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

### QL12: Planning Obligations

States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

### HG1: Housing Provision

Sets out the strategy for delivering new homes to meet the need up to 2011 (which is now out of date and needs replacing through the new Local Plan).

### HG3: Residential Development Within Defined Settlements

Supports appropriate residential developments within the settlement development boundaries of the district's towns and villages.

### HG3a: Mixed Communities

Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

### HG4: Affordable Housing in New Developments

Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

### HG6: Dwellings Size and Type

Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

### HG7: Residential Densities

Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that have long since been superseded by the NPPF.

### HG9: Private Amenity Space

Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

### COM2: Community Safety

Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

### COM6: Provision of Recreational Open Space for New Residential Developments

Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.

### COM21: Light Pollution

Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

### COM23: General Pollution

States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

### COM26: Contributions to Education Provision

Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, toward the provision of additional school places.

### COM29: Utilities

Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

### COM31a: Sewerage and Sewage Disposal

Seeks to ensure that new development is able to deal with waste water and effluent.

### EN1: Landscape Character

Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

### EN4: Protection of the Best and Most Versatile Agricultural Land

Seeks to ensure that where agricultural land is needed for development, poorer quality land is used as priority over higher quality land.

### EN6: Biodiversity

Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

### EN6a: Protected Species

Ensures protected species including badgers are not adversely impacted by new development.

### EN6b: Habitat Creation

Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

### EN12: Design and Access Statements

Requires Design and Access Statements to be submitted with most planning applications.

### EN13: Sustainable Drainage Systems

Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

### TR1a: Development Affecting Highways

Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

### TR3a: Provision for Walking

Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

### TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

### TR6: Provision for Public Transport Use

Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

#### TR7: Vehicle Parking at New Development

Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

#### **Tendring District Local Plan Proposed Submission Draft (November 2012), as amended by the Tendring District Local Plan Pre-Submission Focussed Changes (January 2014).**

Relevant policies include:

#### SD1: Presumption in Favour of Sustainable Development

Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

#### SD3: Key Rural Service Centres

Identifies Elmstead Market as a 'Key Rural Service Centre' where a fair and proportionate increase in housing stock is proposed with no single housing development exceeding 50 dwellings.

#### SD5: Managing Growth

Seeks to direct new development to sites within settlement development boundaries.

#### SD7: Securing Facilities and Infrastructure

Requires developments to address their individual or cumulative infrastructure impacts and states that the Council will use planning obligations and/or CIL (when it is in place), where necessary, to ensure this happens.

#### SD8: Transport and Accessibility

Requires the transport implications of development to be considered and appropriately addressed.

#### SD9: Design of New Development

Sets out the criteria against which the design of new development will be judged.

#### SD10: Sustainable Construction

Requires development to maximise measures to reduce energy consumption and reduce carbon emissions and other forms of pollution both during construction and during use.

#### PRO2: Improving the Telecommunications Network

Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

#### PRO3: Improving Education and Skills



Requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

#### PEO1: Housing Supply

Sets out the proposed growth in new housing for the district, but is subject to considerable change to ensure compliance with the NPPF, as being overseen by the new Local Plan Committee.

#### PEO3: Housing Density

Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

#### PEO4: Standards for New Housing

Sets out proposed minimum standards for the internal floor area and gardens for new homes. Internal floor standards have however now been superseded by national standards to be imposed through building regulations.

#### PEO5: Housing Layout in Tendring

Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour, ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

#### PEO7: Housing Choice

Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

#### PEO9: Family Housing

Promotes the construction of family homes within new housing developments.

#### PEO10: Council Housing

Requires up to 25% of new homes on large development sites to be made available to the Council, at a discounted price, for use as Council Housing.

#### PEO19: Green Infrastructure

Requires new developments to contribute, where possible, toward the district's green infrastructure network.

#### PEO20: Playing Pitches and Outdoor Sports Facilities

Requires new developments to contribute where possible to the district's provision of playing pitches and outdoor sports facilities.

#### PEO22: Green Infrastructure in New Residential Developments

Requires larger residential developments to provide a minimum 10% of land as open space with financial contributions toward off-site provision required from smaller sites.

PEO23: Children's Play Areas

Requires new children's play areas as an integral part of residential and mixed-use developments.

PLA 1: Development and Flood Risk

Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

PLA3: Water Conservation, Drainage and Sewerage

Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PLA4: Nature Conservation and Geo-Diversity

Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

PLA5: The Countryside Landscape

Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

**Other Guidance**

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

**3. Relevant Planning History**

The site has the following planning history:

<b>App No.</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
91/01285/FUL	General purpose agricultural building.	Approved	04.02.1992

**4. Consultations**

TDC Environmental Health      Pollution and environmental control have no comments other than restricting the construction hours to Monday-Friday 0700-1900. Saturday 0800-1300 and no Sunday or bank holiday working on site.

TDC Principal Tree & Landscape Officer      The application site is affected by a Tree Preservation Order in the area on and around the north east of the application site Ref TPO/11/39 Finch Lane Elmstead.

In order to show the extent to which the trees are a constraint on the

development of the land and to identify the way that they will be physically protected should consent for development be granted the applicant has provided information in accordance with B55837: 2012 Trees in relation to design, demolition and construction.

#### Recommendations:

The information shows that the development can be implemented without harm being caused to the protected trees. At the present time the boundary hedgerow adjacent to the highway acts as a good screen. It would be desirable to retain the hedgerow for this purpose. The Tree Constraints Plan shows a minor incursion into the Root Protection Area of T44 Oak although this appears to be outside the application site and would only be an issue if a further application were to be received to develop adjacent land. The incursion into the Root Protection Area is minor and will not have an adverse impact health or long term viability of the tree.

The applicant has submitted a Tree Protection Plan. If consent is likely to be granted then a condition should be attached to ensure that the Root Protection Area of the tree is physically protected in accordance with the information provided for the duration of the construction phase of any consent that may be granted.

The site layout plan shows new soft landscaping - if consent is likely to be granted then a condition should be attached to secure detailed soft landscaping proposals for the whole site.

#### TDC Housing

There is a high demand for housing in Elmstead Market. Currently there are 116 households on the housing register seeking a 1 bedroom property, 56 seeking a 2 bedroom property, 25 seeking a 3 bedroom property and 11 seeking a 4 bedroom or larger property.

At present the Housing Department is still deciding its development and acquisition priorities for the coming years and may not be able to purchase of up to 25% of the units on this site. As an alternative, the Department would be happy to be gifted 1 of the homes on the site as an alternative to purchasing 8.

In some circumstances, for example a sheltered housing scheme, it may be more appropriate for the Council to accept the 25% total as an off-site contribution.

#### TDC Open Space and Play

There is currently a deficit of 4.51 hectares of equipped play/formal open space in Elmstead Market.

There is one play area in Elmstead Market, located along Old School Lane. This play area is classified as a Local Equipped Area for Play and provides facilities for various age groups. As this is the only play area in Elmstead it is already well used and further development in the village will put added pressure on the facility.

The Parish Council is aware of the need for additional provision in the village and is currently working on plans to provide a new community centre and other facilities in the village.

Due to the lack of play facilities in the area, it is felt that a contribution towards play is both justified and relevant to this planning application. However if the public open space is provided and made freely available to the residents of Elmstead Market this will reduce the current deficiency and therefore an open space contribution should not be considered for this application.

## ECC Highways

### Conditions

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

- The bell mouth connection to Clacton Road should be provided with 10.5m kerbed radius with 2m wide footways around that radius and connecting to the existing footways on Clacton Road.
- All internal footways should be shown at 2m in width. All carriageways should be shown at a minimum of 5.5m in width.
- Each single residential vehicular access should be shown at 3.7m in width shared vehicular access should be shown at 5.5m in width together with a 1.5m x 1.5m pedestrian visibility splay on each side of that access.
- Centre line bend radius should be no less than 13.6m together with sufficient forward visibility.
- Internal road junctions should be provided with a 33m x 2.4m x 33m visibility splay clear to ground.
- All off street parking should be in accord with current Parking Standards.
- Any garage with its doors facing the proposed highway should be set back a minimum of 6m from the proposed highway.
- Each dwelling should be provided with a bicycle storage facility.
- The applicant should be requested to consider bus stop provision or improvements onto Clacton Road.
- Details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse fronting Clacton Road.
- The applicant should be requested to consider the provision of street lighting particularly at junctions.

### Observations for Indicative plan numbered 2014 489-SC01.

Note 1: The applicant should be requested to provide off street parking for service vehicles and tankers to the pumping station and not be reliant upon on street parking for these vehicles.

Note 2: All off street parking spaces that are constrained by structures should be shown at 3.4m in width to enable pedestrian circulation around these parked vehicles.

Note 3: Off street parking for Plot 3 is considered to be remote and inconvenient and should be relocated closer to the main entrance.

Note 4: There should be no vehicular access over radius kerbs (Plot 25) this should be relocated.

Note 5: The 4.8m section of carriageway is unlikely to be adopted into the highway network by the Highway Authority and remain a Private Road. Refuse freighters are unlikely to access this road and therefore not make collections. The applicant should be requested to widen this carriageway to 5.5m between kerbs.

Note 6: The carriageway forming the turning head should be shown at 5.5m in width throughout between kerbs.

Note 7: The parking spaces for Plots 28 & 29 should show a clear distance of 6m between the back edge of footway and front elevations of the dwellings.

#### Informative

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](mailto:development.management@essexhighways.org) or by post to: SM01 - Essex Highways Colchester Highways Depot, 653 The Crescent, Colchester. CO4 9YQ.

#### ECC Schools

According to the latest information available to Essex County Council's Early Years and Childcare Team, places in the Thorington, Frating, Elmstead and Great Bromley Ward of Tendring are currently operating at over 80% capacity, and we would need to provide additional places to support this development; based on 32 dwellings, this would generate a need for an additional 3 places.

The proposed development is located within the Tendring group 3 (Brightlingsea/Elmstead) primary forecast planning group. The forecast planning group has an overall capacity of 1,826 places, of which 30 places are in temporary accommodation. The Tendring primary group 3 forecast planning group is forecast to have a deficit of 65 permanent places by the school year 2018-29. Based on 32 dwellings. this would generate the need for an additional 10 places.

The nearest secondary school to this development is Colchester Academy, whilst this school is forecast to have sufficient school places to accommodate the pupils from this proposed development, there is an overall deficit of places across the Colchester Group 1 forecast planning group by 2018-19. Based on 32 dwellings this would generate the need for an additional 7 places.

Prior to the implementation of the revised Community Infrastructure Regulations on the 6th April 2015, the County Council would have sought a developer contribution from the proposed development for additional secondary school places, however, the implementation of the revised Regulations now restrict the pooling contributions for a specific item of infrastructure, such as the expansion of a school, to contributions from five separate planning obligations. Under these changed circumstances the County Council has decided not to request a

contribution for additional secondary school places.

In view of the above it is requested that any permission for this development is granted subject to a section 106 agreement to mitigate its impact on education. The s106 agreement should include a contribution toward early years and childcare and primary education. Using the unit mix referred to above, the early years and child care contribution would be £39,969, for expansion of early year and child care provision within the Thorrington, Frating, Elmstead and Great Bromley Ward. The primary school contribution would be £116,851, to be used for replacement temporary accommodation within the Colchester Group 1 forecast planning group. Index linked to April 2015 costs.

If your Council was minded to turn down the application, we would be grateful if the lack of education and transport provision in the area can be noted as an additional reason for refusal and that we are automatically consulted on any appeal or further application relating to this site.

Anglian Water

Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

The foul drainage from this development is in the catchment of Thorrington Recycling Centre that will have available capacity for these flows.

The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network, they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

The surface water strategy/flood risk assessment submitted with the planning application is not relevant to Anglian Water and therefore this is outside of our jurisdiction for comment and the Planning Authority will need to seek the views of the Environment Agency.

We will request that the agreed strategy is reflected in the planning approval.

Natural England

No comments to make regarding this application.

Essex County Council  
Flood Authority

Original comments dated 21<sup>st</sup> May 2015

Having reviewed the Flood Risk Assessment and the associated documents which accompany the application, we would like to submit a holding objection against the granting of planning permission based on the following:

The Drainage Strategy submitted with this application does not comply with the requirements set out in Paragraph: 030 Reference ID: 7-030-20140306 of the Planning Guidance to the National Planning Policy Framework. The submitted Drainage Strategy does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

In particular, the submitted FRA fails to:

- Restrict to suitable run-off rates.

To comply with the Essex SuDS Guide, the run-off from the impermeable area should be restricted to the 1 in 1 greenfield rate. If this cannot be achieved, evidence would have to be provided for this.

Historically, 5l/s was applied to an outlet where Qbar was lower than 5l/s, as most devices would require an outlet orifice size small that 50mm, which would increase the susceptibility of blockage and failure, There are now vortex flow control devices which can be designed to a discharge at 1.0l/s, with 600mmj shallow design head and still provide a more than 50mm orifice diameter. Therefore this should be investigated further.

- Include urban creep into calculations for storage needed on site.

Document 'BS 8582:2013 Code of practice for surface water management for development sites' states:

To allow for future urban expansion within the development (urban creep), an increase in paved surface area of 10% should be used, unless this would produce a percentage impermeability greater than 100%, or unless specified differently by the drainage approval body or planning authority (page 32).

Revised comments dated 9th July 2015 (following submission of additional information by the applicant on 24th June 2015)

Having reviewed the email sent in response to our objection to the Flood Risk Assessment it is now considered that a drainage scheme has been proposed which demonstrates surface water management is achievable in principle, without causing flooding on-site or elsewhere. We therefore support the granting of outline planning permission.

The proposed development will only meet the requirements of the National Planning Policy Framework if the following measures as detailed in the FRA and the above mentioned email submitted with this application are implemented and secured by way of a planning condition on ant planning permission.

Condition: Before each phase of development approved by the planning permission, a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, should be submitted to and approved in writing by the Local Planning Authority.

The scheme shall include:

- Run-off rates from the site generated by all storm events up to the 1 in 100 year + 30% limited to a maximum of 5l/s.
- Attenuation storage which will cater for the 1 in 100 year critical storm inclusive of climate change and the effect of urban creep.
- An appropriate level of treatment for all runoff leaving the site, in line with table 3.3 of the CIRIA SuDS guide.

- Details of an exceedance and conveyance routes.
- A maintenance schedule for all aspects of the drainage scheme.

Reason: To prevent the increased risk of flooding, both onsite and offsite, and minimise the risk of pollution of surface water by ensuring the provision of a satisfactory means of surface water pollution control and disposal during and after development.

## 5. Representations

5.1 One representation of objection has been made by Elmstead Parish Council but there have been no representations from individual members of the public.

5.2 Elmstead Parish Council objects to this development for the following reasons:

- Planning: The site is outside the planning envelope for Elmstead. If approved this would set an undesirable precedent for additional residential development outside the settlement limits.
- Design: The plans include five 2 and a half storey houses. There are no 2 and a half storey houses in other housing developments in Elmstead or in the surrounding residential area. It is out of keeping and would impact adversely on neighbouring houses.
- Access - safety: The development is outside the 30mph speed limit and so vehicles will be turning into and out of the site across a fast flow of traffic on the A 133, not far from a bend in the road around which the traffic comes at a fast speed.
- Impact on the village: The school in Elmstead is fully subscribed and the doctor's surgery is oversubscribed with it already being very difficult for the residents of Elmstead to get an appointment. Also, our pumping station does not cope with the current demands on it, we understand that it broke down several times over January and February and have been informed that it has flooded in the last year with sewage flowing in the ditch to the Beth Chatto Gardens.

We already have planning permission for 40 houses with a further 50 in the pipeline, the residents are very concerned that our infrastructure does not meet the needs of further additional residents and will impact on the current residents in a negative manner. We do not consider that additional developments are sustainable.

- Location of the site: This site is very close to a scrap metal site and car breakers site. That business site also houses cattle temporarily for 24 hours during transit. We already have complaints from nearby residents about the loud noises from the workers and distressed cattle, and don't feel the location would be a good proposition for a home purchaser.

Also, there is a green gap between existing housing and the planned site.

- Development in Elmstead: TDC have recently approved outline plans for 2 x 20 houses which were included in the local plan. There is an additional plan for 50 houses going through the application process so we have met and may well be providing well above our original allocation in the local plan. As such this plan is not required.
- Additional comments: We would like to ask: What pre-application advice was the applicant given about this application?



Also, we are concerned that there has been no public consultation. The applicant presented his scheme at a Parish Council meeting but there were only a handful of residents present.

We have asked if there will be a public consultation but have not had an answer.

- 5.3 Elmstead Parish Council would like to record that if the planning application is permitted they would like to be consulted on the reserved matters.
- 5.4 The applicant has undertaken public consultation in the village with an exhibition being held on 23<sup>rd</sup> June 2015. A Statement of Community Involvement has been submitted to outline the findings of the consultation which suggests that 25 people attended the exhibition with only 2 people filling in a feedback form to indicate that they preferred this development to others that have recently been considered in the village.

## **6. Assessment**

### **The Site**

- 6.1 The application site comprises just under 2 hectares of predominantly undeveloped shrubland located at the eastern end of the village of Elmstead Market, north of Clacton Road adjoining the property 'Havenbrook'. The site is flat and is very well contained within the landscape, barely visible from most medium-long distance public view-points, mainly due to the strong line of trees and hedges along Clacton Road, the overgrown land to the north off Bromley Road and the vegetation formed around the boundaries of the site itself. The southern part of the site close to Clacton Road, contains a number of structures including an apparently derelict timber-framed stable block and shed.
- 6.2 The site is irregular in shape and whilst it adjoins the built up area at one point, the majority of the site is physically separate from other built property. Approximately 90 metres of the site fronts the highway at Clacton Road to the south but the remaining 160 metres of the southern boundary is set back some 90 metres from the highway. The western boundary is almost entirely formed by the substantial residential property Havenbrook and associated open land to the rear which extends some 300 metres. No other residential properties abut the site directly.
- 6.3 The northern boundary excludes undeveloped land immediately fronting Bromley Road and, as a consequence, is set back some 100 metres from the highway, screened by the vegetation along its own borders as well as the substantial vegetation within the adjoining land. The north eastern tip of the site runs close to a property which is run as Catkins Cattery in Bromley Road but is separated from that property by Finch Lane and associated trees and vegetation.
- 6.4 The eastern boundary of the site is more open with sparse trees and hedging which adjoins an undeveloped field which extends some 260 metres to substantial agricultural cow sheds and Whiting's vehicle salvage and hire business at Bottles Hall which form a prominent hub of agricultural and commercial development out on the fringes of the village.

### **The Proposal**

- 6.5 This outline planning application seeks the approval for the principle of up to 32 dwellings with associated open space and infrastructure. Whilst all matters are reserved for later consideration, a Design and Access Statement and indicative drawings have been submitted which demonstrate, indicatively, how such a development could be achieved within the application site.

- 6.6 The indicative material suggests a scheme of two and two-and-a-half storey 2, 3, 4 and 5-bed properties arranged around a 'P' formation road loop with public open space containing a surface water balancing pond in the south eastern corner and a substantial reinforced landscape buffer all around the site. Some of the properties would look out over the proposed open space which would help to provide a soft edge to the extended settlement.
- 6.7 Vehicular access would be from Clacton Road and the scheme makes provision for visitor parking spaces. The majority of properties are suggested to be two storey, with some selected plots being two and a half storey and garages being single storey.
- 6.8 Developing this parcel of land in isolation is likely to have a limited effect on adjoining properties, however adjoining undeveloped land (particularly to the north and west) would become logical infill plots if this development were to redefine the settlement edge by going ahead. Whilst the applicant does not control these adjoining sites, they have shown on the indicative drawings how access to the adjoining land could be achieved via the proposed development, in the future.

### **Architectural Drawings**

- 143439 - Figure 1 Site Location Plan
- 2014-489-001 Location Plan
- 2014-489-SC02 Indicative Massing Plan
- 143439 Phase 1 Habitat Plan
- 2014-489-SC01 Indicative Site Layout
- 1114-29-01 Topographic Survey
- 2014-489-SC03 Indicative Street Scenes
- 2014-489-HWY-01 Response to Highways Comments

### **Reports and Technical Information**

- Planning Statement
- Design and Access Statement
- Transport Statement
- Ecological Report
- Flood Risk Assessment
- Arboricultural Report
- Tree Survey
- Tree Protection Plan
- Statement of Community Involvement

### **Main Planning Considerations**

- 6.9 The main planning considerations are:
- The principle of residential development;
  - Highways, transport and accessibility;
  - Flood risk and drainage;
  - Infrastructure Impact;
  - Landscape, visual impact and trees;
  - Open space;
  - Ecology;
  - Impact upon neighbours;
  - Council Housing/Affordable Housing; and,
  - Indicative design and layout.

## **Principle of residential development**

- 6.10 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.
- 6.11 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved Objections to relevant policies and the degree of consistency with national policy. The 2012 Local Plan: Proposed Submission Draft, as amended by the 2014 Local Plan: Pre-Submission Focussed Changes, is the Council's 'emerging' Local Plan.
- 6.12 On 25th March 2014, the Council decided that further substantial revisions to the emerging plan will be required before it is submitted to the Secretary of State to be examined by a Planning Inspector. These revisions will aim to ensure conformity with both the NPPF and the legal 'duty to cooperate' relating mainly to issues around housing supply. The separate Local Plan Committee is overseeing this work with a view to a new version of the plan being published for consultation later in 2015.
- 6.13 The site is not allocated for housing or mixed use development in either the adopted or emerging Local Plans. The site also lies completely outside of the 'settlement development boundary' in both the adopted and emerging Local Plans. The site is almost completely isolated from the settlement development boundary as shown in the adopted Local Plan but immediately adjoins the boundary in the emerging plan which was extended to better reflect the delineation of the built-up area with the open countryside by including large rear gardens.
- 6.14 Because the site lies outside of the settlement development boundary and is not allocated for development in either the adopted or emerging Local Plans, this proposal for residential development is contrary to local policy, as pointed out in the objection from Elmstead Parish Council. However, as it stands, both the adopted and emerging Local Plans fall significantly short in identifying sufficient land to meet the objectively assessed need for housing and, as a result, the Council is unable to identify a five-year supply of deliverable housing sites as required by paragraph 47 of the NPPF. In July 2015, the Council was only able to identify a 2.9 year supply. In line with paragraph 49 of the NPPF, housing policies are considered to be 'out-of-date' and therefore the government's 'presumption in favour of sustainable development' is engaged. The Council would not be justified therefore in refusing this planning application, at this time, purely on the basis that it lies outside of the settlement development boundary.
- 6.15 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or
  - specific policies in the NPPF indicate development should be restricted.
- 6.16 One of the NPPF's core planning principles is to *"actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant*

*development in locations which are or can be made sustainable*". With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations.

- 6.17 Elmstead Market is categorised, along with six other villages, as a 'Key Rural Service Centre' in recognition of its size and range of services and facilities. This is the second most sustainable category of settlement following 'urban settlements' which are the primary focus for development. The approach to growth in Key Rural Service Centres in Policy SD3 of the emerging Local Plan is to specifically allocate land for development to help achieve a fair and proportionate distribution of growth across the district. The policy limits residential development in Key Rural Service Centres to 50 dwellings or fewer to minimise the urbanising effect of development on the rural character of villages.
- 6.18 In the emerging Local Plan, two sites in Elmstead Market off Meadow Close and Church Road are allocated for residential developments for (indicatively) 20 dwellings each, representing (together) a proposed dwelling stock increase of approximately 6% for the village. On 3rd March 2015, the Planning Committee resolved to grant planning permission, subject to necessary s106 legal agreements, for these developments (application references 14/01238/OUT and 14/01292/OUT respectively). At the time of writing however, planning permission had not yet been issued for either site, with negotiations on s106 legal agreements still in progress.
- 6.19 On 3rd March 2015, the Planning Committee also considered a separate planning application for 50 dwellings and community facilities on land off School Lane known as the 'Charity Field' (reference 14/01728/OUT). The Committee resolved to defer the decision to a future meeting to enable further negotiations on the number of dwellings proposed and their height, highways and the position of access to the development and community facilities. At the time of writing, these negotiations were still ongoing.
- 6.20 If it is assumed that successful negotiations will result in the grant of planning permission for all three proposals and the eventual constructions of, at most, 90 dwellings across those sites, this additional development of 32 dwellings would potentially increase the village's total housing growth to around 122 dwellings. This would represent a 17% increase in the village's housing stock above current levels. The objectively assessed need for housing, based on latest published evidence, at the time of writing, is for around 12,000 homes up to 2031 or an 18% increase in the district's total housing stock. When considered against this backdrop, the 17% increase in housing stock for Elmstead Market that might transpire as a result of this development alongside others in the pipeline would not represent a disproportionate or excessive level of growth.
- 6.21 Whilst a development of 32 dwellings is well within the 50-dwelling limit suggested for sites in Key Rural Service Centres, the potential for development on the adjoining parcels of land also needs to be considered. The application proposal, if implemented, would in effect re-define the edge of the settlement and certainly increase the likelihood of infill development proposals coming forward for the 0.8 hectare parcel of land fronting Bromley Road to the north and on land rear of Havenbrook to the west (which, at the time of writing, was the subject of a yet-to-be determined planning application 15/00536/OUT for five bungalows and a separate access road). Such developments could have the potential to increase the overall development of this location to around 50 dwellings, but development would be unlikely to exceed that level significantly.
- 6.22 The density of development proposed is 16 dwellings per hectare gross (making no allowance for the open space) and approximately 20 dwellings per hectare net. Policy PEO3 in the emerging Local Plan sets out the factors that should be taking into account when assessing the density of a scheme. These are:

- a) Accessibility to local services;
  - b) Minimum internal floor area and private amenity space standards (as set out in emerging Policy PEO4);
  - c) The required mix of housing;
  - d) The character of development in the immediate area; and
  - e) On-site infrastructure requirements (such as green infrastructure and highways).
- 6.23 The general character of Elmstead Market is very mixed with some areas of historic ribbon development and other areas of post-war estate development. The density of development in the village ranges from as low as 10 dwellings per hectare along Clacton Road (where properties have long rear gardens) to as high as 35 dwellings per hectare around Meadow Close. Given the site's containment within the landscape, its village-edge location and the size and mix of properties suggested, the density proposed for the application site is acceptable for this location and, as shown through the indicative plans provided, can be achieved through an acceptable layout.
- 6.24 Bearing in mind the current lack of a five-year supply of housing sites to meet objectively-assessed needs in Tendring, the status of Elmstead Market as a Key Rural Service Centre, the proportionate level of development proposed (both individually and cumulatively alongside other sites) and the proportionate density of development proposed, Officers consider that, in principle, residential development on this site is acceptable and would make a positive contribution toward housing supply and addressing the social dimension of sustainable development.

#### **Highways, transport and accessibility**

- 6.25 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
  - safe a suitable access to the site can be achieved for all people; and
  - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.26 Policy QL2 in the adopted Local Plan and Policy SD8 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The application site is within 600 metres walking distance of the convenience store and community hall in the centre of the village via the footpath along Clacton Road and is within 1.3 kilometres (0.8 miles) of the primary school. It is also within 200 metres of a bus stop on a bus route with services to and from Colchester. For a rural location, the site offers a reasonable level of accessibility which is reflected in Elmstead Market's categorisation as a Key Rural Service Centre in the emerging Local Plan.
- 6.27 Policy TRA1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy 808 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.

- 6.28 Elmstead Parish Council has objected to the proposal with concerns about its position beyond the village's 30mph speed limit zone where vehicles turning into and out of the site could be crossing fast flowing traffic on the A133. Essex County Council, in its capacity as the Local Highways Authority, has however considered the proposal and concluded that it would be acceptable from a highways perspective subject to a number of conditions. The applicant has submitted a revised indicative layout which takes ECC's comments into account.
- 6.29 In conclusion, for a village location, the site is reasonably accessible, by foot and cycle, to local services and facilities and public transport and the vehicular access and highways matters have been considered and deemed acceptable by the Highway Authority. The transport impacts of the development are not considered to be severe and, from this perspective, Officers consider the proposal to be acceptable.

### **Flood risk and drainage**

- 6.30 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.
- 6.31 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Initially, ECC issued a 'holding objection' and required further work to be undertaken to ensure compliance with the guidelines set out in the relevant National Planning Practice Guidance. The applicant responded to the objection with further information requested and the objection has now been addressed. ECC now supports the grant of outline planning permission subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place.
- 6.32 In conclusion, the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the scheme should comply with the NPPF and Policies QL3 and PLA 1 of the adopted and emerging Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.

### **Infrastructure Impact**

- 6.33 Policy QL12 in the adopted Local Plan and Policy SD? in the emerging Local Plan require that new development is supported by the necessary infrastructure. The Parish Council has raised concern about the impact of the cumulative impact of additional homes on local infrastructure, in particular schools, health services and sewage.
- 6.34 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC advises that early years and childcare facilities in the catchment area are operating at over 80% capacity, primary schools in the catchment area are expected to have a deficit in places by 2018 and secondary schools in the catchment area (the nearest being Colchester Academy) also have a deficit in spaces.
- 6.35 Based on ECC's formula for calculating the number of additional places likely to be required as a result of the development, this scheme of 32 dwellings could generate a need for 3 additional early years and childcare places, 10 primary school places and 6 secondary

school places. A financial contribution of (39,969 toward early year and childcare facilities and (116,852 for primary school facilities has been requested and it is proposed that these contributions be secured through a s106 legal agreement. No contribution toward secondary provision has been sought because under the government's new Community Infrastructure Levy (CIL) Regulations, Councils are no longer allowed to seek financial contributions from any more than five developments towards a single infrastructure project.

- 6.36 NHS England has not made any comments on the application but in areas where there the NHS is concerned about the capacity of surgeries, it will carry out a Health Impact Assessment and does, if necessary, request financial contributions toward the provision of health services. Contributions are generally only requested from developments of 50 or more dwellings. With this in mind, the impact of an additional 32 dwellings on health provision, even when combined with other developments in the pipeline for Elmstead Market is not considered to be significant enough to justify the refusal of planning permission. The cumulative impact of development on health provision is however a matter of great importance that the Council will need to address district wide, in cooperation with the NHS, through the Local Plan.
- 6.37 With regard to sewage capacity, Anglian Water has advised that there is sufficient capacity in the foul sewerage network to deal with the levels of effluent expected from this scheme of 32 dwellings and has made no objections to the proposal, nor has it requested any conditions. The indicative drawings provided by the applicant show the potential location for a new pumping station, if needed. The Parish Council's concerns about the ability for the existing pumping station to cope with current demands are not reflected in Anglian Water's advice and so the addition of 32 dwellings is not expected to add significantly to this issue and the Council would not be justified in refusing planning permission for this reason.
- 6.38 In conclusion, the impacts on local infrastructure arising from this development can either be addressed by way of developer contribution (in the case of education) or are otherwise not considered to be significant or demonstrable enough to justify the refusal of planning permission when applying the presumption in favour of sustainable development.

#### **Landscape, visual impact and trees**

- 6.39 Policy QL9 in the adopted Local Plan and Policy SD9 in the emerging Local Plan require developments to respect and enhance views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Policy EN1 of the adopted Local Plan and Policy PLA5 in the emerging Local Plan seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement. Policies QL9 and SD9 also require developments to incorporate important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings.
- 6.40 Despite being an undeveloped site on the edge of the village, the site is extremely well contained within its wider landscape and is barely visible from most viewpoints. The strong line of hedges and trees along Clacton Road, the screening provided by adjoining land fronting Bromley Road and the context provided by the substantial commercial and agricultural developments further to the east means that development can be achieved without having a materially negative landscape and visual impact.
- 6.41 The Council's Principal Trees and Landscapes Officer has considered the proposal and is satisfied that the development can be implemented without harm being caused to any important trees surrounding the site and that the hedgerow adjacent to the highway acts as a good screen that is desirable to retain. A condition has been requested to secure soft

landscaping proposals for the site and it is proposed that such a condition be applied to the grant of planning permission.

- 6.42 In conclusion, the landscape and visual impact of the development is expected to be tow and enhancements through additional soft landscaping can be secured through planning conditions. Officers are satisfied that, subject to the landscaping being agreed and implemented, the visual and landscape impacts will be acceptable and the scheme can perform well against the environmental dimension of sustainable development.

### **Open Space**

- 6.43 Policy COM6 in the adopted Local Plan and Policy PE022 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. The indicative drawings in support of the planning application show the provision of an area of open space with a potential surface water balancing pond in the south eastern corner of the site with properties orientated to look out of that space. The provision of this area would comply with the Council's policy and would offer the opportunity to achieve an attractive transition between the development and the countryside beyond whist incorporating landscaping features and sustainable drainage facilities.
- 6.44 The Council's Open Space and Bereavement Service Manager has commented on the application and has identified a deficiency of equipped play areas and formal open space in Elmstead that would be exacerbated by additional residential development. A financial contribution has been requested toward off-site play provision but so long as the proposed on-site open space is provided and made freely available to the residents of Elmstead Market, financial contributions for off-site open space is sought. The financial contribution toward play provision would need to be secured through a s106 legal agreement. Also, if the on-site open space is to be transferred to Tendring District Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a s106 legal agreement. If the Committee is minded to approve this application, Officers will engage in negotiations with the applicant to agree the necessary contribution in line with the guidance contained within the Council's Supplementary Planning Document on Open Space.

### **Ecology**

- 6.45 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PLA4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimises, mitigated or compensated for. Policy EN6b in the adopted Local Plan and PLA4 in the emerging Local Plan support the creation of new habitats within developments subject to appropriate management and public access arrangements. Policy EN6a in the adopted Local Plan refers specifically to protected species including badgers.
- 6.46 The application site is not designated as site of international, national or local importance to nature conservation and Natural England has offered no objection, in principle, to the proposed development.
- 6.47 The applicant has prepared and submitted a Phase 1 Ecological Report that has identified no evidence of protected species occupying the site but that parts of the site do offer a habitat for a range of non-protected, common and abundant species that are found in



similar places across much of Britain. These habitats are described as being of low to intermediate value and assessment concludes that there are no over-riding ecological constraints to the development being proposed, subject to appropriate conditions to secure mitigation/enhancement measures that would both reduce the impact on wildlife and increase the long-term nature conservation value of the site.

- 6.48 Officers consider that the ecological value of the site is as described in the Phase 1 Ecological Report and that the recommended mitigation measures are secured through condition. These include avoiding site clearance during the main bird nesting season, the supervision of site clearance works by an ecologist, suitable fencing to reduce the possibility of damage to established vegetation, new planting including trees and shrubs, bat and bird boxes on suitable mature trees or on the proposed houses, lighting positioned to minimise light spillage and pollution, and new habitats created within the proposed open space.
- 6.49 In conclusion, the impact on biodiversity is expected to be low and through the recommended mitigation measures, the ecological value of the site could be enhanced. Officers consider that these measures are acceptable, would ensure compliance with the policies in the Local Plan and the environmental dimension of sustainable development.

### **Impact upon Neighbours**

- 6.50 The development only impacts directly upon one residential property, that of Havenbrook in Clacton Road. Based on the indicative drawings provided, the applicant has demonstrated that an appropriate landscape buffer along the eastern edge of Havenbrook combined with a reasonable distance to the proposed new road and the front of the nearest proposed properties can be achieved to minimise any disturbance to that property or any concerns with regard to secured-by-design principles. No objections had been received, at the time of writing, from any occupiers of properties in Clacton Road or Bromley Road near to the site.
- 6.51 Elmstead Parish Council, in its objections to the proposal, has raised concern about the proximity of the site to Whiting's scrap metal and car breakers site; explaining that there are already complaints from nearby residents about loud noises coming from that operation and the resultant disturbance to the cattle on the adjoining farm, who then omit noises themselves.
- 6.52 Policy QL11 in the adopted Local Plan and Policy SD9 in the emerging Local Plan require that the health, safety or amenity of any occupants or users of a proposed development are not materially harmed by any pollution from an existing or committed use. In this case, the Parish Council is concerned about noise pollution.
- 6.53 The Council's own Environmental Health team has been consulted on this application and having considered the proximity of the site to the nearby commercial and agricultural uses, has made no objection to the proposal.
- 6.54 In conclusion, Officers consider that the impact of the development on neighbours is likely to be low and that, subject to detailed consideration of reserved matters such as design and layout at a later stage, will be acceptable.

### **Council Housing/Affordable Housing**

- 6.55 Policy PEO10 in the emerging Local Plan requires 25% of new dwellings on large sites to be made available to the Council to acquire at a discounted value for use as Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the

remainder of the 25% requirement. The application makes provision, in principle, for 25% affordable housing within the scheme which would be secured through a s106 agreement in line with the emerging policy. On a development of 32 dwellings, the 25% requirement would equate to 8 dwellings being acquired by the Council.

- 6.56 The Council's Housing Needs team has commented on the application and advised that there is a need for affordable housing in Elmstead Market based on evidence from the local housing register. It has been suggested that, as an alternative to transferring 8 properties to the Council at a discounted value, the Council would be prepared to accept 1 property 'gifted' (i.e. transferred to the Council at zero cost).
- 6.57 If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of Council Housing to be secured through a s106 legal agreement.

### **Indicative Design and Layout**

- 6.58 As an outline planning application, detailed design and layout is a reserved matter for future consideration but the Council needs to be satisfied that an appropriate scheme of up to 32 dwellings with associated open space and infrastructure can be accommodated on the site in an appropriate manner. The indicative material submitted in support of the application, including the indicative layout and elevation drawings and Design and Access Statement demonstrate that there is a reasonable prospect of an acceptable scheme being achievable on the site.
- 6.59 The suggested layout of the properties comply with general urban design and secured-by-design principles and show how the dwellings could relate well to neighbouring dwellings, the proposed open space and the potential development of adjoining land. Despite being slightly detached from the settlement edge, the site is well contained within the landscape and can be developed in a manner that would not detract from the character of the wider village which contains a mixture of linear and estate development.
- 6.60 Elmstead Parish Council has raised concern that the 5 x two and a half storey homes being suggested would be out of keeping and would impact adversely on neighbouring houses. Officers consider that an appropriate scheme including two and a half storey homes could potentially be achieved but, as reserved matters, such details are for later consideration and negotiation and the Council would not be justified in refusing outline planning permission on such grounds. Officers note that the Parish Council wishes to be consulted on any reserved matters application, at which point detailed comments on design would be taken into account.

### **Conclusion**

- 6.61 The application has been assessed in relation to the policies of the NPPF and relevant adopted Local Plan and emerging Local Plan in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2014. The application has been assessed in relation to the following issues and potential impacts:
- The principle of residential development;
  - Highways, transport and accessibility;
  - Flood risk and drainage;
  - Infrastructure Impact;
  - Landscape, visual impact and trees;
  - Open space;
  - Ecology;
  - Impact upon neighbours;
  - Council Housing/Affordable Housing; and

- Indicative design and layout.

6.62 In summary the main considerations and conclusions are:

- The application is for 'outline' consent seeking approval only for the principle of up to 32 dwellings (incorporating 25% affordable housing) with associated open space and infrastructure.
- The site is predominantly undeveloped greenfield land at the eastern end of Elmstead Market which is very well contained within the landscape and barely visible from most medium to long-distance public view points.
- The site is not allocated for housing development and it lies completely outside of the 'settlement development boundaries' in both the Council's adopted Local Plans; however because the Council's housing policies are out of date and a five-year supply of deliverable housing sites (plus a 20% buffer) cannot currently be identified, the proposal has to be considered on its merits in line with the government's 'presumption in favour of sustainable development'.
- Elmstead Market is categorised as a 'Key Rural Service Centre' in the emerging Local Plan in recognition of its reasonable range of shops, services, facilities and infrastructure where, in principle, a proportionate level of housing development could be acceptable.
- Given the projected level of housing needed in the district, this development, when considered individually or even cumulatively alongside other developments in the pipeline for the village and the potential for infill development on adjoining land, would not constitute a disproportionate or excessive increase in housing stock.
- The site in question is within walking distance, by footpath, of services and facilities in the village and bus services to and from neighbouring Colchester. Highways impacts have been considered and the Highway Authority has no objection, subject to its suggested planning conditions being applied.
- The impacts of the new housing development on schools can be addressed through financial contributions, as requested by Essex County Council and the impacts on health services and sewage capacity are not sufficient to justify the refusal of planning permission with NHS England making no comments and Anglian Water having no objections to the proposal.
- A Flood Risk Assessment has been submitted with the application which demonstrates that surface water flooding resulting from development on the site can be managed through the use of sustainable drainage systems and conditions are proposed requiring the submission of detailed drainage strategy for the Council's approval, in liaison with Essex County Council, before development takes place.
- The landscape, visual and ecological impacts of the scheme have been considered and, subject to conditions requiring landscaping and other mitigation measures, the impacts are considered to be acceptable, with the potential for net environmental enhancement.
- The development is not expected to have an unacceptable impact on neighbours and the proximity of the site to commercial and agricultural activities to the east and potential exposure to noise is not considered to be significant enough factors to justify the refusal of outline planning permission.

- The applicant has demonstrated that 32 dwellings could be accommodated on the site in an appropriate manner and at an acceptable density.
- Elmstead Parish Council has objected to the proposal but there has been very little public interest with this proposal with no representations in either support or objection from individual members of the public. The applicants own community engagement and limited feedback also demonstrate a low level of public interest in this scheme.

6.63 In conclusion, in applying the NPPF 'presumption in favour of sustainable development' the proposal addresses the three dimensions of sustainable development. The economic impact of the development would be positive both in terms of temporary construction jobs and the increased demand for goods and services that arises from population growth; the social impacts would be positive in terms of the contribution toward meeting projected housing need, providing public open space and funding additional school places; and the environmental impacts would be neutral with the potential for them to be positive subject to securing successful approaches to landscaping, drainage and habitat creation.

6.64 The adverse impacts of the development would not significantly or demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole and therefore in line with paragraph 14 of the NPPF Officers recommend the approval of outline planning permission subject to the completion of a s 106 legal agreement to secure a financial contribution toward education provision, a financial contribution toward play provision, an appropriate level of on-site Council/Affordable Housing; and an appropriate level of open space with necessary arrangements for long-term maintenance. There are also a number of conditions that would apply to the grant of planning permission, as outlined at the head of this report.

#### Background Papers

None.