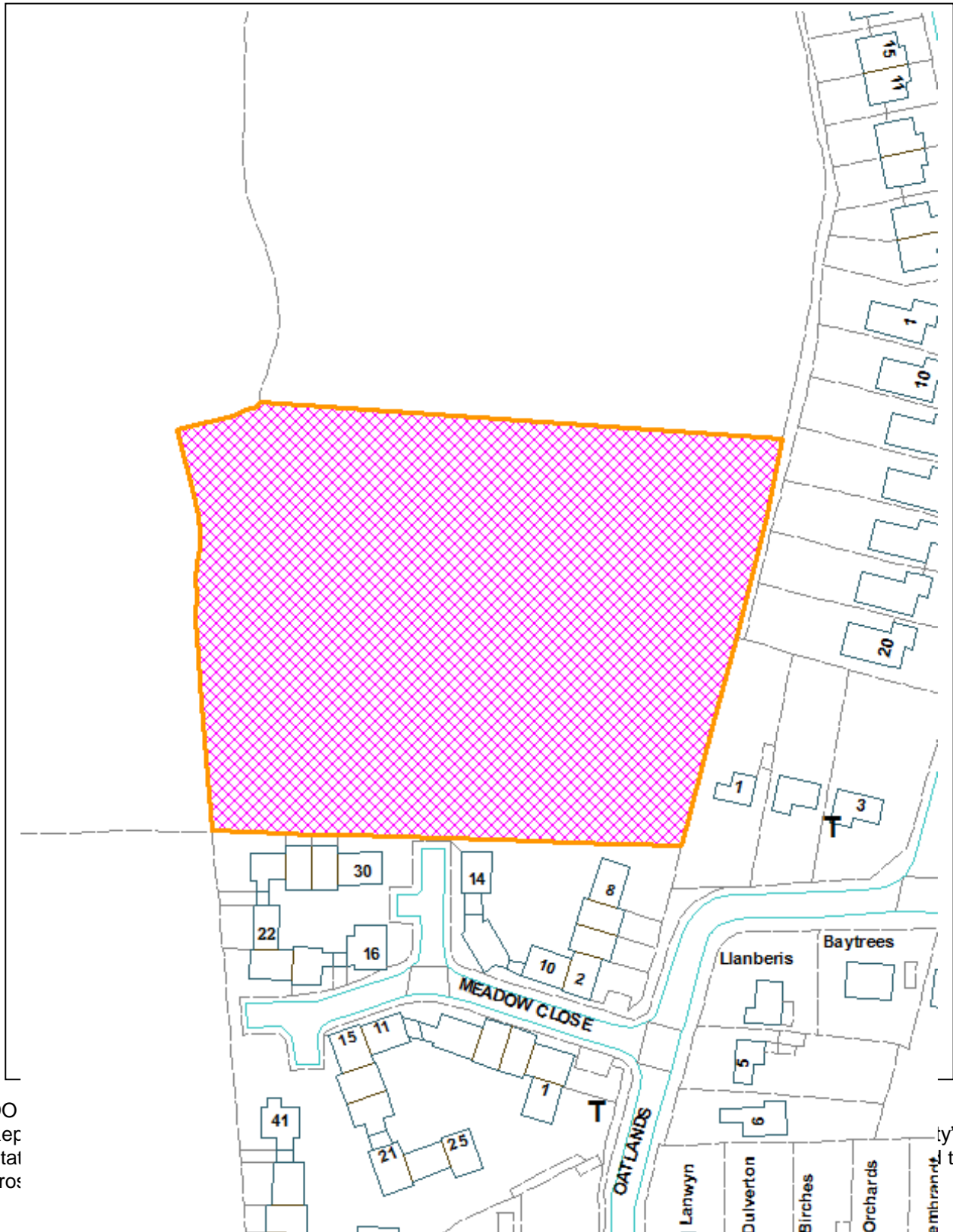


PLANNING COMMITTEE

22 September 2015

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION - 14/01238/OUT - AGRICULTURAL FIELD TO THE NORTH OF MEADOW CLOSE, ELMSTEAD, CO7 7HR



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Application:	14/01238/OUT	Town / Parish: Elmstead Market Parish Council
Applicant:	Mr C Gooch	
Address:	Agricultural Field to The North of Meadow Close Elmstead CO7 7HR	
Development:	Outline application for the erection of twenty dwellings with associated access and pedestrian crossing on Colchester Road.	

1. Update

- 1.1 **This application was referred to Planning Committee on 3rd March 2015. The Planning Committee resolved to grant outline planning permission subject to the completion of a Section 106 legal agreement within 6 (six) months (i.e. by 3rd September 2015): subject to the conditions: otherwise the Head of Planning had Authority to refuse if necessary. Any reserved matters application was to be referred to the Planning Committee.**
- 1.2 **Since the date of the resolution discussions regarding the completion of the Section 106 legal agreement have been on going and are nearly resolved, The Head of Planning seeks the Committee's agreement to an extension of time until 30th November 2015 in order to complete the legal agreement. The original officer's report from 3rd March 2015 is reproduced in full below for information only with the revisions to the recommendation highlighted in bold text and underlined.**

2. Executive Summary

- 2.1 The application site lies outside of the defined settlement development boundary of Elmstead Market as set out in the Tendring District Local Plan (2007). However the whole site lies within the extended defined settlement boundary of Elmstead Market in the Tendring District Local Plan Proposed Submission Draft (2012) (as amended), as supporting an urban extension to the town and has been specifically identified for residential development under draft policy KEY 2.
- 2.2 Outside of these boundaries Policy QL1 of the Tendring District Local Plan (2007) and Policy SD5 of the Tendring District Local Plan Proposed Submission Draft (2012) (as amended) states that permission is to be refused for new residential development subject to specified exceptions.
- 2.3 Elmstead Market is identified as a 'Key Rural Service Centre' in the 2012 Draft Local Plan (Policy SD3). For these settlements, the Local Plan identifies opportunities for smaller-scale employment and tourism related developments, opportunities for the enhancement of village centres and public transport facilities and other community facilities and local improvements. Between 1st April 2014 and 31st March 2024, these settlements will each accommodate a sustainable, fair and proportionate increase in housing stock that will support the overall housing growth proposed for the district, as set out in Policy PEO1: 'Housing Supply'. This will be achieved through development on sites specifically allocated for housing or mixed-use development in this Local Plan and sites with outstanding planning permissions for residential development, supplemented by development on other suitable sites within Settlement Development Boundaries.
- 2.4 With specific reference to the application site Policy KEY2 of the Draft Local Plan sets out that Land off Meadow Close, Elmstead Market (as defined on the Policies Map Inset) has been allocated for residential development of no more than 20 dwellings that will also be

required to fund the provision of a new pedestrian crossing across Colchester Road at the western end of the village, to the specification of Essex County Council, as the Highway Authority. This development shall consist of predominantly single storey or chalet bungalows to reflect the character of adjoining properties in Meadow Close and Harvest Way and can incorporate an element of specialist retirement and extra care housing.

- 2.5 The National Planning Policy Framework sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 2.6 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers recognise that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF and as a result the proposed development cannot be refused solely on the basis that a site is outside the development boundary.
- 2.7 Paragraph 14 of the NPPF sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 2.8 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight.
- 2.9 Officers conclude that the proposed development would satisfy the 3 dimensions of 'sustainable development' as outlined in the NPPF, whilst also being able to achieve a development that could comply with Policies QL9, QL10 and QL11 of the Tendring District Local Plan (2007) as well as Policies SD3, SD9 and KEY2 of the Tendring District Local Plan Proposed Submission Draft (2012) (as amended).

Recommendation:

That the Head of Planning (or equivalent authorised officer) be authorised to grant outline planning permission for the development subject to:-

- a) **By no later than 30th November 2015** 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 required):
- **Pedestrian crossing on Colchester Road**
 - **Improvements to bus stops in the vicinity of Colchester Road/Oatlands junction. These would include:**
 - **West bound stop – enter taper improved, circa 9m of the existing layby filled in and a 5m section of raised kerbing and a new exit taper.**
 - **East bound stop – relocated circa 15m to the east.**
- 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 (or the equivalent authorised officer) in their discretion considers appropriate).

(i) Conditions:

1. Details of the appearance, access, layout, scale and landscaping (the reserved matters)
2. Application for approval of the reserved matters to be made within three years

3. The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters
4. Development to contain a maximum of 20 dwellings
5. Existing and proposed site and finished floor levels
6. Details of all earthworks
7. Details of materials
8. Hard and soft landscaping
9. All hard and soft landscaping implementation
10. Development constructed in accordance with details contained within the Tree Report
11. Landscaping – Five year clause
12. Landscape/Public open space management plan
13. Ecological mitigation scheme and management plan
14. Details of boundary treatments
15. Details of refuse storage/collection points
16. Archaeology investigative and report works
17. Site lighting strategy
18. Sustainability report for reserved matters
19. Construction Method Statement, including details of hours of operation during construction.
20. Parking in line with adopted Parking Standards
21. Details of a surface water drainage scheme, including surface water swales
22. No dwellings/premises to be occupied until the surface water drainage strategy is carried out
23. Details of a foul water strategy
24. Unfettered vehicular, pedestrian and cycle access to be provided to land to the north, west and east of the site
25. Details of wheel cleaning facility
26. No occupation of the development until the following have been provided or completed:
 - A pedestrian crossing on Colchester Road at the western end of the village. A residential travel plan
 - Residential travel information packs
 - Improvements to bus stops in the vicinity of Colchester Road/Oatlands junction. These would include:
 - West bound stop – enter taper improved, circa 9m of the existing layby filled in and a 5m section of raised kerbing and a new exit taper.
 - East bound stop – relocated circa 15m to the east.
27. Details of the estate road(s) and footways
28. Construction of carriageway(s) of the proposed estate road(s)
29. Internal estate road junction visibility splays
30. Vehicular turning facility for service and delivery vehicles
31. Details of new driveways and parking areas
32. Scheme for provision and implementation of water, energy and resource efficiency measures, during the construction
33. Details for the disposal of surface water

c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse outline planning permission in the event that such legal agreement has not been completed within the period of 6 months, as the requirements necessary to make the development acceptable in planning terms had not been secured through S106 planning obligation, contrary to saved policies QL2, HG4, COM26 and QL12 of the Tendring District Local Plan (2007) and draft policies SD7 and PEO10 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014).

3. Planning Policy

National Policy:

National Planning Policy Framework (2012)

National Planning Practice Guidance (2014)

Local Policy:

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
ER1	Employment Sites
ER2	Principal Business and Industrial Areas
HG1	Housing Provision
HG3	Residential Development Within Defined Settlements
HG4	Affordable Housing in New Developments
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
HG14	Side Isolation
COM1	Access for All
COM6	Provision of Recreational Open Space for New Residential Development
COM26	Contributions to Education Provision
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN4	Protection of the Best and Most Versatile Agricultural Land
EN6	Biodiversity
EN6A	Protected Species

EN6B	Habitat Creation
EN13	Sustainable Drainage Systems
EN23	Development Within the Proximity of a Listed Building
EN29	Archaeology
TR1A	Development Affecting Highways
TR1	Transport Assessment
TR3A	Provision for Walking
TR5	Provision for Cycling
TR6	Provision for Public Transport Use
TR7	Vehicle Parking at New Development

Tendring District Local Plan: Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014)

SD1	Presumption in Favour of Sustainable Development
SD3	Key Rural Service Centres
SD7	Securing Facilities and Infrastructure
SD8	Transport and Accessibility
SD9	Design of New Development
SD10	Sustainable Construction
PRO2	Improving the Telecommunications Network
PRO3	Improving Education and Skills
PRO14	Employment Sites
PEO1	Housing Supply
PEO2	Housing Trajectory
PEO3	Housing Density
PEO4	Standards for New Housing
PEO5	Housing Layout in Tendring
PEO7	Housing Choice
PEO8	Aspirational Housing
PEO9	Family Housing

- PEO10 Council Housing
- PEO22 Green Infrastructure in New Residential Development
- PLA1 Development and Flood Risk
- PLA3 Water Conservation, Drainage and Sewerage
- PLA4 Nature Conservation and Geo-Diversity
- PLA5 The Countryside Landscape
- PLA6 The Historic Environment
- PLA8 Listed Buildings
- KEY2 Development in Elmstead Market

Other Guidance:

Parking Standards Design and Good Practice Guide (2009)

Essex Design Guide

4 Relevant Planning History

None directly relevant

5. Consultations

Environmental Health	Prior to the commencement of the development proposals, investigations shall be carried out to establish whether the site is contaminated in any way. Such investigations shall be carried out in accordance with a scheme which shall first be agreed in writing with the Local Planning Authority. If the investigations reveal contamination of the site, a further scheme shall be agreed in writing by the Local Planning Authority, setting out measures to ensure that the entire area of the site, in relation to soil conditions resulting from such contamination, will not be harmful or detrimental to human health, animal health, normal plant health or growth, to buildings, building surfaces or amenities. Such agreed measures shall be implemented and completed to the satisfaction of the Local Planning Authority prior to the commencement of any development of the site.
Regeneration	No comments received
Housing Services	No comments received
Policy Section	No comments received
Principal Tree Landscape Officer	<p>& The site is currently in agricultural use and has no trees or other vegetation in the main body of the land. There are a number of important trees situated on the boundary of the application site.</p> <p>The applicant has submitted a Tree Survey and Report that has been</p>

carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction.

The main purpose of the tree survey is to inform the applicant of the extent of the constraint that the trees are on the development potential of the land.

The applicant has submitted a draft site layout this appears to show that the proposed development would be outside the Root Protection Areas (RPA's) of the boundary trees.

If consent is likely to be granted then additional information should be provided, as a reserved matter, to show how the trees will be protected for the duration of the construction phase of any planning consent.

The indicative site layout shows soft landscaping proposals. If consent is likely to be granted then a detailed soft landscaping scheme should be provided, as a reserved matter, by the applicant.

Anglian Water Services Ltd

Assets Affected – There are owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water request that an informative be attached to any approval drawing this fact to the applicant's attention.

Wastewater Treatment – Thorrington Water Recycling Centre has available capacity.

Foul Sewerage Network – The sewerage system currently has available capacity.

Surface Water Disposal – Water strategy/flood risk assessment submitted is acceptable subject to evidence provided that the SUDS hierarchy is followed. The flow rate to the public sewer should be kept at a maximum of 5 litres per second.

Trade Effluent – N/A

ECC Highways Dept

No objection subject to controlling conditions being attached to any approval.

Environment Agency

In the absence of an acceptable Flood Risk Assessment (FRA) an objection was raised on the following grounds:

- FRA did not demonstrate a feasible method of surface water drainage.
- Did not consider all sources of flooding that could affect this site.
- Did not give detail of how exceedance events over 1 in 100 cc will be managed.

At the time of drafting this report the applicants had submitted a revised FRA to the Environment Agency (EA) who have not yet commented and members will be updated as to the EA's comments.

Essex Wildlife Trust

No comments received

Natural England

No objections

ECC Schools Service	<p>Early years and Childcare – Sufficient early years and childcare places to serve the needs of the development although the ward is close to capacity.</p> <p>Primary School provision – Elmstead Primary School has a capacity of 208 places. The school is forecast to have a deficit of 18 places by school year 2017/18.</p> <p>Secondary School provision – Forecasts indicate that there is likely to be sufficient places at secondary school level to meet the needs of the development. However due to the distance of the school from the development ECC is obliged to provide free transport to the school resulting in long term cost to ECC.</p> <p>In view of the above the following contributions would be sought through a section 106 agreement:</p> <p>Primary School - £64,998 Secondary School Transport - £15,210 Total £80,208</p>
ECC SuDS Consultee	No comments received
Essex County Council Archaeology	The application has implications for the significance of un-designated heritage assets, comprising below ground archaeological remains. A condition has been suggested that will be imposed as part of any approval.

6. Representations

- 6.1 23 Letters of objection have been received and the matters raised can be summarised as follows:
- Result in dramatic increase in traffic in Meadow Close.
 - Meadow Close too narrow to carry additional traffic.
 - Screen fencing has been removed.
 - Does not fit demographic of the area.
 - Traffic calming measure in Colchester Road not suitable.
 - Highway safety concerns.
 - Loss of light to adjoining properties due to tree planting within development.
 - Air pollution due to increased traffic.
 - Any significant increase in traffic flow will endanger the safety of residents and property.
 - Development result in increase in traffic flow and noise – affecting quality of life and property values.
 - Proposal out of character with surrounding area and existing houses.
 - Access from Meadow Close not suitable
 - Disturbance during construction period
 - Tree planting on boundaries could result in loss of light to properties adjoining the site
 - Suggested crossing on Colchester Road not adequate
 - Loss of rural agricultural land
 - Retention of existing hedging
 - Damage to Meadow Close during construction
 - Pollution during construction
- 6.2 The above matters in combination with consultee comments received have been considered as part of this report and form the basis of the final conclusion reached by officers.

7. Assessment

7.1 The main planning considerations are:

- Site Description;
- Proposal;
- Planning Policy Position;
- Layout and Design;
- Sustainability;
- Sustainable Location;
- Community involvement;
- Housing;
- Highway and Parking Issues;
- Biodiversity;
- Landscape/Arboricultural Issues;
- Impact on Heritage Assets;
- Drainage and Flood Risk;
- Education;
- Employment Use; and,
- Section 106 Obligations.

Site Description

7.2 The site comprises 1.03 hectares of relatively flat agricultural land at the western edge of Elmstead Market, north of Meadow Close. There are field boundary trees and hedging on the eastern and western boundary and the site is open to the north where it forms part of a larger field. The site is bordered to the south and east by the side and rear gardens of approximately 14 dwellings on Meadow Close and Harvest Way. The boundary between the site and properties on Meadow Close is mostly marked by a low, well-maintained ornamental hedge. Properties along Harvest Way are screened by hedging, trees and fencing. The arable use of the field continues beyond the northern and western boundaries of the plot.

7.3 Elmstead Market is served by five bus routes with an hourly service linking between Colchester and Clacton along the A133. There are bus stops at Oatlands within a very short walking distance of the site at the junction of Oatlands and opposite Meadow Close.

7.4 Access to rail services is available at Alresford and Hythe, and Wivenhoe, 2 and 2,5 miles from Elmstead Market respectively. Colchester station, which has a frequent service to Liverpool St. is 8km distant, accessible by bus or car with parking at the station.

7.5 The site is within easy walking distance of Elmstead Market Primary School and playing fields to the north.

7.6 National Cycle Network Route 51 passes through the village.

7.7 The current access to the field is provided via Meadow Close, with a pair of wooden gates to the end of the turning head to secure the access. This is a route used by agricultural vehicles.

Proposal

7.8 The proposal is an outline application for the erection of 20 dwellings on a 1.03ha site including access from Meadow Close but with layout and all other matters reserved for further approval.

7.9 It includes provision for a pedestrian refuge in Colchester Road.

- 7.10 Indicative plans showing layout, scale, appearance and landscaping are included with the application to demonstrate that the proposed development can be accommodated successfully on the site. Whilst it is noted that the submitted planning statement refers to 3 and 4 bedroom two storey properties and detailed application would need to have full regard to the requirements of Policy KEY2 which states that; ***“The development will consist of predominantly single storey or chalet bungalows to reflect the character of adjoining properties in Meadow Close and Harvest Way.”***
- 7.11 The layout can retain much of the existing boundary treatment and provides a landscaping buffer between existing properties on Meadow Close and the proposed development in the form of a drainage solution. The layout would allow continued access to the remainder of the field beyond the northern boundary for agricultural vehicles.
- 7.12 Parking can be provided in accordance with the Council's adopted parking standards as indicated on the indicative layout.
- 7.13 Details of these elements of the proposed development will be determined at a future reserved matters stage in accordance with any outline planning permission and the policies of the Local Plan.
- 7.14 Members are advised that consideration of the merits of the application are limited to the principle of residential development for up to 20 dwellings and the access arrangement.

Planning Policy Position

- 7.15 This site forms part of an area of land allocated for a residential development in the Tendring District Local Plan: Proposed Submission Draft (2012), as amended by the Pre-Tendring District Local Plan: Pre-Submission Focussed Changes (2014), and is covered by a specific Policy KEY2 'Development in Elmstead Market'. This is one of a number of urban extension sites that were identified in the Draft Local Plan to address future housing requirements in the district up to 2024 in recognition of the short and ever decreasing supply of previously developed land within established built up areas and the government's requirement for Councils to boost, significantly, the supply of housing to meet objectively assessed needs.
- 7.16 For members information, policy KEY2 also refers to development at land off Church Road for residential development comprising up to 20 dwellings. An outline application has been submitted for this site and has also been presented to committee for determination (14/01292/OUT refers).
- 7.17 Whilst the Draft Local Plan has yet to be adopted and the Council knows that further changes will be needed, paragraph 216 of the National Planning Policy Framework does allow Councils to give weight to relevant policies in emerging plans according to:
- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
 - the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - the degree of consistency of the relevant policies in the emerging plan to the policies in the National Planning Policy Framework (the greater the consistency, the greater the weight that may be given).

- 7.18 The 2012 Draft Local Plan was published for consultation in November 2012 and the subsequent Focussed Changes were published in January 2014 having followed previous consultation on issues and options in 2009, a draft Core Strategy in 2010 and housing numbers, locations and type in 2011. Officers therefore consider that the Draft Local Plan has reached a sufficiently advanced level of preparation to be given weight in the determination of planning applications.
- 7.19 The Council also received a number of objections to the overall housing growth figures proposed for the Local Plan, including objections from Essex County Council, Colchester Borough Council and landowners and developers, concerned that the plan does not make adequate provision of land to meet the objectively-assessed need for housing, in full, as required by the National Planning Policy Framework (NPPF). Having taken advice from the Planning Inspectorate and considered the difficulties that other Councils have encountered in trying to meet the requirements of national policy, the Council, on 25th March 2014, decided that further revisions to the Local Plan will be needed to address this issue and that a dedicated Local Plan Committee would be set up to oversee this work. The aim is to prepare a new version of the Local Plan identifying additional sites for housing development for initial consultation in 2015 with final consultation, submission, examination and adoption in 2016.
- 7.20 With regard to consistency with the National Planning Policy Framework, the development of this site would contribute significantly toward addressing the objectively assessed needs for housing development and reducing the shortfall that the Council will need to address through further changes to the Local Plan later in the year. The site is also in a sustainable location with good access to existing employment areas, public transport, the highway network and other local facilities. For this reason the 'presumption in favour of sustainable development' set out in national policy should apply to this proposal.
- 7.21 Turning to matters of policy detail, Policy KEY2 sets out that; "Land off Meadow Close, Elmstead Market (as defined on the Policies Map Inset) is allocated for residential development of no more than 20 dwellings that, alongside other relevant policy requirements in Chapter 2 to 5 of this Local Plan, will also be required to fund the provision of a new pedestrian crossing across Colchester Road at the western end of the village, to the specification of Essex County Council, as the Highway Authority. The development will consist of predominantly single storey or chalet bungalows to reflect the character of adjoining properties in Meadow Close and Harvest Way and can incorporate an element of specialist retirement and extra care housing."
- 7.22 In conclusion, from a planning policy perspective, outline planning permission can be approved in accordance with Policy KEY2 of the 2012 Draft Local Plan, as amended by the 2014 Focussed Changes and the 'presumption in favour of sustainable development' set out in the National Planning Policy Framework.

Layout and Design

- 7.23 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.
- 7.24 With regard to decision taking this means:
- approving development proposals that accord with the development plan without delay; and
 - where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or

- specific policies in this Framework indicate development should be restricted.

- 7.25 The NPPF in Chapter 6 sets out its commitment in terms of the provision of delivering a wide choice of high quality homes.
- 7.26 In support of the overarching aims and objectives of the NPPF the Tendring District Local Plan Proposed Submission Draft sets out the Councils commitment to sustainable development in Policies SD1, SD3 and SD5 while the requirements for good quality design are set out in Policy SD9.
- 7.27 The submitted details show that the total development site covers an area of 1.03ha and includes access from Meadow Close.
- 7.28 With regards to the residential element of the scheme, the applicant confirms this will include a mix of housing types, integrated with private amenity and open space.
- 7.29 Whilst the matters of layout and scale are for later consideration the applicants have given a general indication of the likely layout of the site with the submission of an Indicative Site Plan. This plan identifies the location for the 20 dwellings twenty dwellings in four small clusters off of a central spine road. The layout responds to the logical position of the access, can retain much of the existing boundary treatment and provides a sizable landscaping buffer between existing properties on Meadow Close and the proposed development in the form of a drainage features.
- 7.30 It is however noted that the submitted planning statement suggests that the dwellings would be two storey in character. On this matter officers would suggest that any detailed application will need to have full regard to the requirements of Policy KEY2 which emphasises that the site should be developed with predominantly single storey or chalet bungalows to reflect the character of adjoining properties in Meadow Close and Harvest Way.
- 7.31 A development of mainly two storey properties on this site would result in a scheme that would be out of character with the area whilst resulting in an unsympathetic urban edge to the open countryside beyond the northern boundaries of the site.
- 7.32 Based on the land available for development and having regard to local constraints it is considered that developing this site for up to 20 residential units could be successfully achieved.

Sustainability

- 7.33 The government has set out, at the heart of the National Planning Policy Framework (NPPF), the concept of a 'presumption in favour of sustainable development' which should be seen as a golden thread running through both plan-making and decision taking.
- 7.34 Paragraph 6 of NPPF states that "the purpose of planning system is to contribute to the achievement of sustainable development" and paragraph 7 goes on to identify the three fundamental roles that the planning system should play in seeking to achieve that goal – an 'economic role', a 'social role' and an 'environmental role'.
- 7.35 The NPPF makes it clear that gains in each of these respects are necessary for a proposal to contribute toward, and be classed as sustainable development.
- 7.36 Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective the delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF sets out housing applications should be considered in the context of the

presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

- 7.37 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers consider that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF.
- 7.38 This view has also been supported by the Planning Inspectorate in a number of recent appeal decisions for similar outline schemes.
- 7.39 The Council has published the Tendring District Local Plan Proposed Submission Draft (2012), but the document is yet to be submitted to the Secretary of State. Formal adoption cannot take place before it has been examined, consulted on and found to be sound and until that time the relevant emerging policies may be subject to change. When considered in relation to paragraph 216 of the Framework they may be afforded only limited weight.
- 7.40 Based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 7.41 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- economic,
 - social; and,
 - environmental roles.
- 7.42 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

Economic

- 7.43 Officers consider that the proposal would contribute economically to the area, for example by providing employment during the construction of the development and in the new employment site and from future occupants utilising local services such as shops and amenities within the town, and so meets the economic arm of sustainable development.

Social

- 7.44 In terms of the social role, the site is within proximity of various services all within walking distance of the site. Bus services are in close proximity of the site, with a bus stop on Colchester Road to the south of the site. Existing bus services from the south of the site provide a link to Clacton Town Centre and surrounding towns and villages as well as Colchester.
- 7.45 The site also benefits from a primary school within a 2 mile walking distance.
- 7.46 Overall officers consider that the application site performs reasonably well in terms of the social role within the definition of sustainability.

Environmental

- 7.47 It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact (subject to consideration against other Local Plan policies) as the site forms part of the Settlement Development Boundary in the 2007 adopted Local Plan, albeit allocated for employment use.
- 7.48 On this basis, and given the inclusion of the site within the defined settlement boundary in the draft Local Plan, Officers consider that a more pragmatic approach is justified in this instance to development, as the development of this site can be achieved in keeping with the aims and objectives of National Planning Policy Framework.

Housing

- 7.49 The NPPF requires Councils to boost, significantly, the supply of housing to address objectively assessed needs and promote a wide choice of high quality housing. Paragraph 49 of the NPPF makes it clear that proposals for housing development should be considered positively in the context of the 'presumption of sustainable development' and Paragraph 47 requires Councils to identify, in any one year, a supply of five years' worth of developable housing land with a degree of flexibility to promote choice and competition in the market for land.
- 7.50 The Council's 2007 Adopted Local Plan was only intended to provide housing land up to 2011 and therefore the housing supply elements of that plan are now out of date and if the Council were to rely solely on that plan, it would not be possible to demonstrate a five year supply of housing land. In applying weight to the emerging 2012 Draft Local Plan however, the Council is demonstrating its intention to comply with this requirement by identifying additional sites for the period up to 2021, of which one is the application site.
- 7.51 In the absence of a five year supply of deliverable housing sites in the 2007 Adopted Local Plan, the Council is expected to comply with NPPF's 'presumption in favour of sustainable development' and, where possible, support proposals for housing development. Because the application site is the subject of an allocation in the 2012 Draft Local Plan that has been approved by Full Council, there is already an acceptance that development in this location could be supported. The fact that the Draft Local Plan has also been published for consultation and the applicant has actively sought to address the comments raised, both during consultation on the Draft Local Plan and through their own consultation efforts adds further weight to the argument that this application should be approved to ensure compliance with the NPPF and the presumption in favour of sustainable development.
- 7.52 Policy PEO7 of the draft Local Plan (as amended) supports the objectives of the NPPF by promoting a mix of housing size, type and tenure on new development sites of 10 units or more, with a preferred mix being:
- At least 10% of dwellings to be private housing with 4 or more bedrooms;
 - At least 40% of dwellings to be private housing with 3 bedrooms;
 - Between 10% and 25% of dwellings to be Council Housing or Affordable Housing; and
 - Between 25% and 40% to be determined by developers in responding to market demand.
- 7.53 Policy PEO10 of the draft Local Plan requires development proposals involving the development of 10 or more dwellings to provide 25% of the new dwellings as affordable units, with a minimum of 10% of new dwellings to be provided on site, and the remainder of the 25% requirement offered as an off-site financial contribution towards the construction of property for use as Council Housing. In this instance the applicant is committed to delivering 10% affordable housing on-site (up to 25 units), and is willing to negotiate an off-site

affordable housing contribution on the basis that this can be justified through further evidence on need, and subject to viability assessment (see Section 106 Obligations section).

- 7.54 In this regard Paragraph 173 of the NPPF states that careful attention should be paid to viability in decisions. Sites should not be subject to such a scale of obligations that their ability to be developed viably is threatened. The applicants have submitted a viability assessment which has been independently assessed. At the time of drafting this report the outcomes of this assessment form the basis of ongoing negotiations between the applicant and officers.

Highway and Parking Issues

- 7.55 Paragraph 4 of the NPPF sets out the criteria for promoting sustainable transport and in this regard stipulates in Paragraphs 34 to 36 how this should be approached. The overall aims and objectives of the NPPF are supported by Policies contained within Chapter 7 of the Tendring District Local Plan (2007) as well as by Policies SD8 and PEO4 of the Tendring District Local Plan Proposed Submission Draft (2012).
- 7.56 The proposal indicates that access would be from the centre of the southern boundary, utilising the existing turning head at the end of Meadow Close. The existing road is a standard 4.8m width with 1.5m wide footpaths on either side.
- 7.57 Concern has been expressed that the development will lead to congestion and highway safety concerns as a result of an increase in traffic movement through Meadow Close. The applicants have submitted a Transport Statement in support of the application which concludes that traffic would be expected to increase by just 12 vehicle movements in the AM peak and 10 in the PM peak as a result of the scheme.
- 7.58 Essex County Council, as the Highway Authority, raises no objection to this approach subject to the imposition of controlling conditions.
- 7.59 Based on the above officers consider that the scheme for 20 dwellings will not lead to any significant impact upon the highway network.
- 7.60 Policy KEY2 requires the provision of a new pedestrian crossing across Colchester Road at the western end of the village, to the specification of Essex County Council.
- 7.61 Following discussions with the Essex County Council Highways which included an assessment of road speeds and the frequency of pedestrians crossing Colchester Road, the Local Highway Authority did not consider a pelican or zebra crossing to be appropriate. As an alternative, a pedestrian refuge island has been recommended. A refuge would provide a clear, safe crossing point and assists with traffic calming at the western end of the village. An achievable design for the facility has been progressed with the Local Highway Authority (HA) and provided in support of this application, included within the Transport Statement.
- 7.62 It is noted that the Parish Council have raised strong objection to the proposed refuge and it was suggested that an alternative pedestrian crossings should be explored as these would be considered more suitable.
- 7.63 As part of the Transport Statement an assessment was completed of the existing and likely demand for crossing by pedestrians against the existing and predicted flow of vehicles using the A133. The HA were consulted on this matter and advised that a controlled crossing such as a zebra crossing could be detrimental to highway safety and therefore unacceptable to the HA in this instance.

- 7.64 In addition the HA stated that an informal crossing such as the pedestrian refuge being proposed is sufficient and further suggested that a refuge is unlikely to be dangerous instead could be considered a safer option and would also add an element of traffic calming.
- 7.65 The applicants have indicated that they are willing to enter into a section 106 agreement that will secure the provision of the pedestrian refuge on Colchester Road in accordance with the requirements of Policy KEY2 and with the support of the HA.

Biodiversity

- 7.66 Policies within Chapter 6 of the Tendring District Local Plan (2007) and Policy PLA4 of the Tendring District Local Plan Proposed Submission Draft (2012) seek to ensure that where development is likely to harm nature conservation or geo-diversity interests, planning permission will only be granted in exceptional circumstances, where the benefits of the development clearly outweigh the harm caused and where appropriate mitigation measures must be incorporated into the development to the satisfaction of the Environment Agency and other appropriate authorities.
- 7.67 Officers note that no part of the development site or any land that it abuts has any type of statutory or non-statutory conservation designations.
- 7.68 In support of the application an Ecological Assessment prepared by D F Clark Aspect Ecology has been submitted. This assessment identifies that the trees and species poor hedgerow onsite provides nesting habitat for birds, and foraging habitat for bats, birds and invertebrates. Mature trees along the boundary of the site provide potential for roosting bats.
- 7.69 Officers consider that the remaining habitats within the site are either species-poor, and/or intensively managed and composed of common and widespread species such that these habitats are of low/negligible ecological value and therefore their loss under the proposals is considered to be of minor/negligible ecological significance.
- 7.70 With regards to protected species, the habitats within the site provide limited opportunities for bats, badger, reptiles and common birds, and therefore the following mitigation/precautions are proposed:

Bats – Trees with bat potential at the site will be protected during construction and a lighting scheme for the development designed and implemented which reduces light spill onto these trees and boundary vegetation, where appropriate.

Reptiles – Scrub, ruderal and grassland habitats to the margins of the site should be fenced with exclusion fencing such as Heras fencing to protect any reptiles that are present during construction works.

Birds – Common birds may use habitats within the site for nesting, and as all wild birds receive protection whilst nesting, in order to avoid a potential offence it is recommended that any clearance of nesting habitat is undertaken outside of the bird nesting season. New landscape planting will ensure long-term nesting opportunities for birds are secured if not enhanced.

- 7.71 In conclusion, based on the evidence obtained from detailed ecological survey work, and with the implementation of the recommendations set out in the report (secured by condition), together with mitigation measures and an ecological enhancement scheme, there is no reason to suggest that any ecological designations, habitats of nature

conservation interest or any protected species will be significantly harmed by this proposal. Therefore based on the above it is considered that the development of this site in the manner proposed can be achieved without significant harm to nature conservation or geo-diversity interests in keeping with the aims and objectives of National and Local Plan Policies as set out above.

Landscape/Arboricultural Issues

- 7.72 Policy PLA5 of the Tendring District Local Plan Proposed Submission Draft (2012) sets out that the countryside in the district is one of its key assets both in terms of tourism and the living environment of local residents. The district is diverse in its landscape character and appearance and certain areas are particularly sensitive to development and change.
- 7.73 In this regard, the applicant notes the existing site is bounded by hedgerows to the northern, eastern, and western sides with a number of mature hedgerow trees along the eastern boundary. The southern boundary comprises the hedgerow and trees of Bramcote Wood and the security fence around the retained industrial site.
- 7.74 The site is currently in agricultural use and has no trees or other vegetation in the main body of the land. There are a number of important trees situated on the boundary of the application site. The applicant has submitted a separate Tree Survey and Report that has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. This report was considered by the Council's Tree and Landscape Officer who concluded that the indicative site layout appears to show that the proposed development would be outside the Root Protection Areas (RPA's) of the boundary trees.
- 7.75 The officer recommended that should permission be granted then additional information should be provided, as a reserved matter, to show how the trees will be protected for the duration of the construction phase of any planning consent.
- 7.76 In addition the officer noted that the indicative site layout included soft landscaping proposals. In this regard if permission would be granted then a detailed soft landscaping scheme should be provided, as a reserved matter, by the applicant.
- 7.77 Based on the above officers consider that the proposed development would not have a significant adverse impact on the character and appearance of the area, or any protected trees.

Drainage and Flood Risk

- 7.78 The National Planning Policy Framework makes it clear that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, it should be made safe without increasing flood risk elsewhere. Accordingly, Policy QL3 of the Tendring District Local Plan (2007) and PLA1 of the Tendring District Local Plan Proposed Submission Draft (2012) have been informed by these national policy requirements, the findings of Strategic Flood Risk Assessments (SFRA) and advice from the Environment Agency.
- 7.79 The applicants have submitted a Flood Risk Assessment as part of the application which highlights the fact that with reference to the Environment Agency Flood Maps the site is located entirely within Zone 1 – at low risk of flooding, as defined by Table 1 of the Technical Guidance to the National Planning Policy Framework (having a less than 1 in 1000 annual probability of river or sea flooding in any year).
- 7.80 With regards to the information submitted within the FRA, the Environment Agency (EA) has been consulted. The EA raised an objection to the submitted FRA on the following grounds:

- ***FRA did not demonstrate a feasible method of surface water drainage.***
- ***Did not consider all sources of flooding that could affect this site.***
- ***Did not give detail of how exceedance events over 1 in 100 cc will be managed.***

7.81 At the time of drafting this report the applicants had submitted a revised FRA to the Environment Agency (EA) who have not yet commented and members will be updated as to the EA's comments.

7.82 In addition, Anglian Water has commented upon the application, and confirmed:

Assets Affected – There are owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water request that an informative be attached to any approval drawing this fact to the applicant's attention.

Wastewater Treatment – Thorrington Water Recycling Centre has available capacity.

Foul Sewerage Network – The sewerage system currently has available capacity.

Surface Water Disposal – Water strategy/flood risk assessment submitted is acceptable subject to evidence provided that the SUDS hierarchy is followed. The flow rate to the public sewer should be kept at a maximum of 5 litres per second.

Trade Effluent – N/A

7.83 Based on the details above and subject to a favourable response from the EA with regard to the revised FRA it is considered that the application site could be developed in the manner proposed without any risk of flooding from or to the proposed development compliant with the aims and objectives of the NPPF as well as Local Plan Policies set out above.

Education

7.84 Local Plan Policies QL12 of the Tendring District Local Plan (2007) and SD7 of the Tendring District Local Plan Proposed Submission Draft (2012) sets out that the Council will seek planning obligations wherever they are fairly and reasonably related in scale and kind to the proposed development.

7.85 Having regard to the overall scale of the current proposal Essex County Council Education Services have stated that:

Early years and Childcare – Sufficient early years and childcare places to serve the needs of the development although the ward is close to capacity.

Primary School provision – Elmstead Primary School has a capacity of 208 places. The school is forecast to have a deficit of 18 places by school year 2017/18.

Secondary School provision – Forecasts indicate that there is likely to be sufficient places at secondary school level to meet the needs of the development. However due to the distance of the school from the development ECC is obliged to provide free transport to the school resulting in long term cost to ECC.

7.86 In view of the above the following contributions would be sought through a section 106 agreement:

Primary School - £64,998

Secondary School Transport - £15,210

Section 106 Obligations

- 7.87 Policy PEO10 of the draft Local Plan requires for developments of 10 or more dwellings, the Council will expect 25% of new dwellings to be made available to Tendring District Council to acquire at a discounted value for use as Council Housing, or as an alternative, the Council will accept a minimum 10% of new dwellings to be made available to the Council alongside 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. In this instance, the applicant has offered 10% of the total unit build as affordable housing, with a remaining off-site contribution to be negotiated with the Council.
- 7.88 In this regard Paragraph 173 of the NPPF states that careful attention should be paid to viability in decisions. Sites should not be subject to such a scale of obligations that their ability to be developed viably is threatened. The applicants have submitted a viability assessment which has been independently assessed. At the time of drafting this report the outcomes of this assessment form the basis of ongoing negotiations between the applicant and officers.
- 7.89 Essex County Council Education Services have confirmed the need for a financial contribution towards education provision. ECC confirm that there are sufficient early years and childcare places to serve the needs of the development although the ward is close to capacity. While for Primary School provision it is stated that Elmstead Primary School has a capacity of 208 places. The school is forecast to have a deficit of 18 places by school year 2017/18. In addition with regard to Secondary School provision forecasts indicate that there is likely to be sufficient places at secondary school level to meet the needs of the development. However due to the distance of the school from the development ECC is obliged to provide free transport to the school resulting in long term cost to ECC.
- 7.90 In view of the above the following contributions would be sought through a section 106 agreement:
- Primary School - £64,998
Secondary School Transport - £15,210
- 7.91 The Viability Assessment submitted by the applicant suggested that a contribution to education facilities would result in viability concerns with regard to the delivery of the scheme when taken in combination with the other financial contributions required as part of the scheme. The Viability Assessment has been independently verified and the feedback received did not disagree with this assessment.
- 7.92 Also as stated in the report above, a Section 106 Agreement is required to provide a pedestrian refuge on Colchester Road in accordance with the requirements of Policy KEY2. In addition improvements were also requested to bus stops in the vicinity of Colchester Road/Oatlands junction. These would include:
- West bound stop – enter taper improved, circa 9m of the existing layby filled in and a 5m section of raised kerbing and a new exit taper.
East bound stop – relocated circa 15m to the east.
- 7.93 A separate S278 agreement is also required to secure access into the site from the existing highway at Thorpe Road.
- 7.94 The applicant has indicated a willingness to enter into a planning agreement to secure the pedestrian refuge on Colchester Road while discussions are ongoing with regard to the provision of affordable housing.

7.95 Members are therefore requested that if there is a resolution to grant outline planning permission, that the Head of Planning (or equivalent authorised officer) be authorised to grant outline planning permission for the development subject to within 6 months of the date of the Committee's resolution, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the above matters.

Conclusion

7.96 It is considered that the development of the application site in the manner proposed could be achieved in compliance with the National and Local Plan Policies identified above and approval is recommended on this basis.

Background Papers

None.