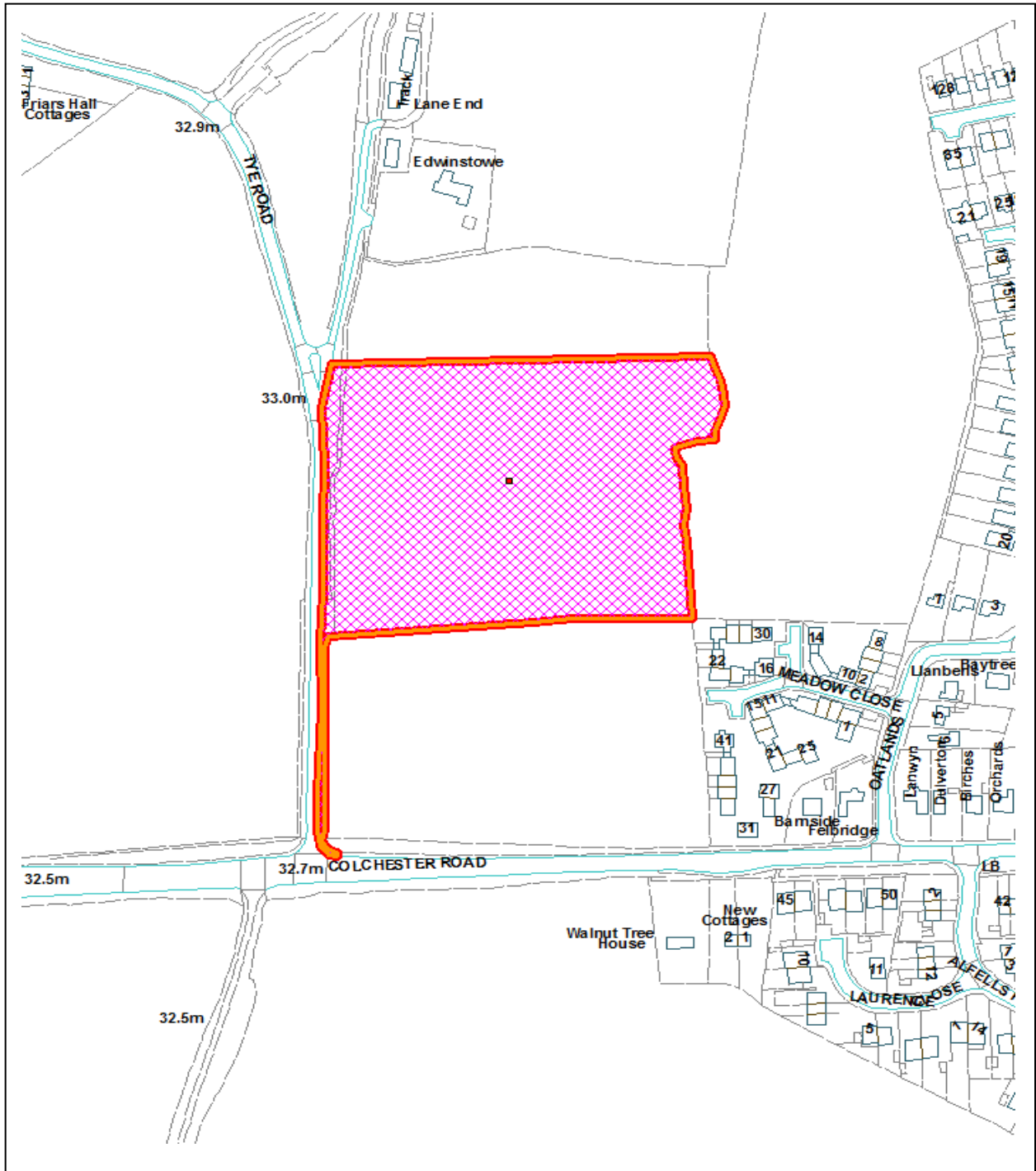


PLANNING COMMITTEE

12th July 2016

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATION - 16/00219/OUT - LAND TO THE EAST OF TYE ROAD, ELMSTEAD, COLCHESTER, CO7 7BB



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Application:	16/00219/OUT	Town / Parish: Elmstead Market Parish Council
Applicant:	Hills Residential Ltd - Mr J Hills	
Address:	Land To The East Of Tye Road, Elmstead, Colchester, CO7 7BB	
Development:	Outline planning application for residential development of up to 32 dwellings, land for a community facility and associated parking and infrastructure.	

1. **Executive Summary**

- 1.1 This application is referred to Planning Committee as it represents a departure from the Development Plan being located outside the Settlement Development Boundary and at the request of Cllr. Heaney.
- 1.2 The site is situated to the east of Tye Road and the western edge of Elmstead. The application site is roughly rectangular in shape and measures 2.4 hectares. It is currently managed as an arable field and is bounded by a continuous mixed native hedgerow with individual mature trees.
- 1.3 In the absence of an up-to-date Local Plan and the subsequent need to consider the proposal against the NPPF presumption in favour of sustainable development, the proposal achieves an appropriate balance between economic, social and environmental considerations. It is considered that the proposal represents sustainable development.
- 1.4 It is considered that the majority of the development can occur without resulting in an adverse impact on trees or hedgerow especially those protected by Tree Preservation Orders. However, it is clear that the provision of a footway along Tye Road is not acceptable if it results in the loss of the hedgerow or the tree subject to a preservation order and if this is the case other pedestrian links will need to be considered. These are issues that can be dealt with as part of a future reserved matters application.
- 1.5 It is considered that the site is capable of accommodating up to 32 dwellings (depending on size and design) whilst resulting in no significant material harm to the character of the surrounding area, biodiversity or protected species, preserving the amenities of neighbouring residents and meeting the requirements of Essex County Council Highways.
- 1.6 A number of letters have been received supporting the application on the basis that the development serves to improve the access of the approved application 14/01238/OUT. Residents do not wish for additional vehicles to pass through Meadow Close and welcome the opportunity that the Tye Road application offers by taking the extra traffic directly out onto Tye Road. An access from Meadow Close for up to 20 vehicles was granted under application 14/01238/OUT as this site is in separate ownership it is not possible for the Council to ensure that the access onto Meadow Close is not implemented as a result of this development.

Recommendation:

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

- a) Within 6 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:

- Affordable Housing on-site;
- Education contribution, and;
- Public open space and play facilities on-site.

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. 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 no more than 32 dwellings.
5. Details of materials.
6. Hard and soft landscaping.
7. All hard and soft landscaping implementation.
8. Tree protection measures.
9. Landscaping – Five year clause.
10. Ecological mitigation scheme and management plan.
11. Details of boundary treatments.
12. Construction Method Statement, including details of hours of operation during construction.
13. Parking in accordance with adopted Parking Standards.
14. Details of bellmouth junction with Tye Road.
15. Vehicular visibility splays along Tye Road.
16. Visibility splays for each internal estate road junction.
17. Details of vehicular turning facilities.
18. Details of recycling/bin/refuse collection point.
19. No unbound materials shall be used in the surface treatment of the proposed residential vehicular accesses within 6m of the highway boundary or proposed highway boundary.
20. Width and details of each individual vehicular access.
21. Width of carriageways.
22. Width of footways.
23. Garages to be sited a minimum of 6 metres from highway boundary.
24. Details of provision for the storage of bicycles for each dwelling.
25. No occupation of the development until the following have been provided or completed:
 - 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.
 - New posts, flags and timetables.
 - A pedestrian central refuge island in Colchester Road in the vicinity of its junction with Oatlands and the west bound bus stop to include localised carriageway widening and new sections of the footway to the specifications of the Highway Authority.
26. Details of a surface water drainage scheme.

- 27. A maintenance plan detailing the maintenance arrangements of the surface water drainage system.
 - 28. Yearly maintenance logs of maintenance of the surface water drainage system.
 - 29. Details of a foul water strategy.
 - 30. Contaminated Land Desktop Study.
 - 31. Provision and Implementation of Residential Travel Information Packs
- c) That the Head of Planning 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 HG4, COM6, COM26 and QL12 of the Tendring District Local Plan (2007) and draft policies SD7, PEO22 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).

2. **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
- HG1 Housing Provision
- HG4 Affordable Housing in New Developments
- HG6 Dwelling Size and Type
- HG7 Residential Densities
- HG9 Private Amenity Space
- 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
- 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
- SD5 Managing Growth
- 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
- 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

Other Guidance

Parking Standards Design and Good Practice Guide (2009)

Essex Design Guide

Provision of Recreational Open Space for New Development SPD (2008)

3. Relevant Planning History

- 3.1 There is no planning history on the application site. However, planning permission under reference 14/01238/OUT was granted for 20 dwellings in outline form on the adjacent site which is relevant to this application.

4. Consultations

Elmstead Parish Council Wishes to object to the application for the following reasons:

- The development is outside the existing village development parameters and would extend the village boundaries of development.
- The development would adversely affect the character and appearance of the village.
- The location is visually isolated from the settlement of the village and would affect the street scene and the countryside. The buildings would be out of character with the few other buildings in the area.
- The development would not be compatible with the surrounding land uses, and would affect the beauty of the countryside.
- Despite a pre-meeting with the agent and a request to provide village facilities, the application only provides a piece of land for the village and no facility.
- Village facilities are needed as the current facilities are unable to sustain further development.
- A further 32 houses (Clacton Road) have been agreed for the village which in addition to other agreed developments 2 x 20

houses in Church Road and Meadow Close (plus additional smaller developments) highlights the current issues Elmstead has with sustainability. This equates to at least 72 houses and a further 32 would affect our current overcrowding at the primary school and doctors surgery in Elmstead.

- The Doctors Surgery would like to explore the possibility of building a new medical facility as the current facility does not cope with the current over-demand.
- There is no footpath from the development down Tye Road and no space to construct this. The owner of the adjacent land is refusing to sell any land to allow for a pavement. (The land owner of the adjoining land is against this development due to the effect it would have on the countryside and local environment).
- There are unsafe traffic conditions in Tye Road due to excessive large lorry traffic, serving the biodigesters on Allens Farm, coupled with general large lorry traffic using Tye Road as a cross country route and not the main road. Also there is planning permission granted by Essex County Council for a further reservoir and initially an excavation of gravel and stone on Mitchells Farm.
- The supply of affordable housing would not have a positive effect as the village is unable to sustain an increase of population above the already agreed 72 houses.
- There were a number of factual errors in the application relating to the frequency of bus services through the village, resulting in misrepresentation of the number of buses and destinations which would be available to residents of the proposed dwellings.
- Overall there is little more than an hourly service into Colchester, an hourly one into Clacton, nothing into Brightlingsea and an impractical service to Thorpe and Walton.

**Building Control and
Access Officer**

No comments at this stage, however there appears to be no mention of foul drainage/sewer provision.

Environmental Health

Advise that the outline permission can be approved, further information in relation to a contaminated land desk top study/watching brief in relation to the site is required if a detailed application is submitted.

**Essex County Council
Highways**

Based on original plans submitted state that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following mitigation and conditions:

1. Prior to the first occupation of the development, the proposed estate road, at its bellmouth junction with Tye Road shall be provided with 10 metre radius kerbs returned to an access road carriageway width of 5.5 metres and flanking footways 2 metres in width returned around the radius kerbs. The new road junction shall be constructed at least to binder course prior to the commencement of any other development including the delivery of materials.
2. Prior to the proposed access to Tye Road being brought into use, vehicular visibility splays of 181 metres northerly by 2.4 metres by 192 metres southerly as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in

- perpetuity free from obstruction clear to ground.
3. Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of 25 metres by 2.4 metres by 25 metres on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained free from obstruction clear to ground.
 4. Prior to commencement of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction in perpetuity.
 5. Prior to first occupation of the proposed development, a (communal) recycling/bin/refuse collection point shall be provided adjacent to the highway boundary and additionally clear of all visibility splays at accesses.
 6. No unbound materials shall be used in the surface treatment of the proposed vehicular accesses within 6m of the highway boundary or proposed highway.
 7. Prior to first occupation of the proposed development, each individual proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.
 8. All carriageways should be provided at 5.5 metres between kerbs or 6.0 metres where vehicular access is taken but without kerbing.
 9. All footways should be provided at no less than 2 metres in width.
 10. All off street car parking shall be in precise accord with the details contained within the current Parking Standards.
 11. Any garage provided with its vehicular door facing the highway or proposed highway, shall be sited a minimum of 6m from the highway boundary.
 12. Prior to commencement of the proposed development, details of the provision for the storage of bicycles for each dwelling, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.
 13. Prior to the first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Plan including the initial commitments; and amended and supplemented under the provisions of a yearly report. The Residential Travel Plan to include a commitment to provide a Travel Plan co-ordinator within the residential sales office to give advice to the new residents of the development.
 14. The proposed connection to the adjoining proposed development under planning permission reference 14/01238/OUT shall be constructed straight for the first 10 metres within the site and an extension of the proposed carriageway and footways.

Informatives:

- a) There should be no vehicular access over any radius kerbs.
- b) The new carriageways should be provided with a centreline bend radius of 13.6m together with adequate forward visibility.
- c) Any trees provided within the adoptable highway will attract a commuted sum of no less than £750 per tree.
- d) The applicant should be requested to consider the provision and location of street lighting columns, particularly at road junctions, these should be within the adoptable areas.
- e) The proposed carriageway to enable future expansion of the site or access should be shown at no less than 5.5m in width together with 2.0m wide footways.
- f) Refuse freighters are unlikely to manoeuvre over Private Drives.
- g) 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 or by post to:
SMO1 ' Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

- h) The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.
- i) Should this proposal come forward as a FULL application the Highway Authority is likely to request the following infrastructure improvements to the bus stops located in the vicinity of Oatlands and Colchester Road.
 - West bound stop; entry taper improved, circa 9metres of the existing layby filled in, a 5 metre section of raised level entry kerbing and new exit taper (existing shelter to be retained).
 - East bound stop; relocated circa 15 metres easterly.
 - Together with new posts, flags and timetablesAdditionally, a pedestrian central refuge island in Colchester Road in the vicinity of its junction with Oatlands and the west bound bus stop to include localised carriageway widening and new sections of footway to the specifications of the Highway Authority.

ADDITIONAL RESPONSE

A further response was received from Essex County Council Highways which states that there is development immediately beside this proposed development which has the grant of outline planning permission for a residential development. There is also a vacant parcel of land which also adjoins both of these development sites which may come forward for development. The Highway Authority strongly recommends that there should be inter connectivity by foot,

bicycle and motorised vehicles between all three sites to be approved at the appropriate planning stages and would be content for this to be dealt with at the reserved matters stage.

**Essex County Council
Flood & Water
Management**

Having reviewed the revised Flood Risk Assessment and Drainage Strategy and the associated documents, consider that a surface water drainage scheme has been proposed which demonstrates that surface water management is achievable in principle, without causing flooding on site or elsewhere. Recommend conditions to ensure the following:

- A detailed surface water drainage scheme
- A maintenance plan detailing the maintenance arrangements of the surface water drainage system
- Yearly maintenance logs of maintenance of the surface water drainage system

Housing (TDC)

There is a high demand for housing in Elmstead. As a starting point in the emerging plan the Department would look for up to 25% of the provision on a site of this size to be affordable. However, as there are financial pressures on the Department, the Department is not in a position to purchase up to 25% of the properties even at a discounted price. As an alternative, the Department would prefer to be gifted 2 properties on this site (this being 30% of the 8 units that could be affordable housing in the provisions of the emerging plan).

Open Space (TDC)

Advises that there is currently a deficit of 4.51 hectares of equipped play/formal open space in Elmstead Market. There is one play area located along Old School Lane. The 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 pressure on the facility. Due to the lack of facilities in the area it is recommended that open space and play facilities be provided within the development.

Natural England

Advises that if undertaken in strict accordance with the details submitted, the proposal is not likely to have a significant effect on the interest features for which the Colne Estuary Phase 2 SPA, Colne Estuary Phase 2 Ramsar and Essex Estuaries SAC have been classified. In addition Natural England are satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the Colne Estuary SSSI has been notified.

Anglian Water

No objection subject to a condition requiring a foul water strategy to be submitted and agreed prior to the commencement of development.

**Essex County Council
Schools**

Advise that on the basis of 32 houses, assuming that all of the units have 2 bedrooms or more. A development of this size can be expected to generate the need for up to 2.8 early years and childcare places, 9.6 primary school and 6.4 secondary school places.

According to Essex County Council's childcare sufficiency data, there are sufficient early years and childcare places within the Thorrington Ward to accommodate children generated by this development.

The Tendring Primary Group 3 forecast planning group is forecast to

have a deficit of 61 permanent places by the school year 2019-20. Based on the demand generated by this proposal a developer contribution of £117,293 (index linked to April 2016) is sought to mitigate the impact on local primary school provision.

The nearest secondary school 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 forecast planning group. Prior to the implementation of the revised Community Infrastructure Levy Regulations in April 2015 the County Council would have sought a developer contribution from this proposed development for additional secondary school places. However, the implementation of the revised regulations now restrict the pooling of 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.

Tree and Landscape Officer (TDC)

In order to show the extent to which the trees and hedgerows are a constraint on the development of the land; to identify those trees and hedgerows that would need to be removed to facilitate the development proposal and the way that retained vegetation would be physically protected should planning permission for development be granted the applicant has provided a Tree Survey and Report. The report has been completed in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.

The trees on the eastern boundary and included in G20 of the tree report are important in terms of their amenity value and although most are identified for retention they are potentially at risk as a result of the development of the land and, more importantly from post development pressures. For this reason the trees have been made the subject of a tree preservation order: ref TPO/16/04.

The narrow strip of land adjacent to Tye Road running from the main body of the application site to Colchester Road includes an established hedgerow - G31 of the tree report. In terms of the value of the hedgerow the section between Colchester Road and the proposed pedestrian only access is considered to meet the criteria contained in The Hedgerow Regulations 1997 under which its 'importance' is assessed. The hedgerow contains at least 4 woody species listed in schedule 3 of the regulations and has 5 of the associated features listed in part 2 paragraph 7(4) a to g. That is: a) a bank supporting the hedgerow, b) less than 10% gaps, e) one tree every 50m, g) a ditch along at least half its length and i) a parallel hedge within 15m. In this regard the hedgerow is 'important' and should be retained.

As many of the trees in the southern section of the hedgerow are important features in their own right they have also been included in the new tree preservation order: ref TPO/16/04. A single Oak in G31 has also been included in the TPO.

Although at the outline stage the applicant has provided a site layout plan showing proposed position of dwellings, open space/community facility provision and the position of a flood retention pond.

The information submitted with the application identifies the removal of three trees (T5, T9 and T19), two groups of trees/hedgerows (G6 and G31) and one part of a group (G20).

Whilst the removal of the individual trees and the part of G20 will not have a significant detrimental impact on the character and appearance of the area the removal of (G6 and G31) would, in itself, bring about a significant change to the character of Tye Road and the hedgerow removal, construction of the new footway in Tye Road, would have a harmful urbanising impact on the local landscape character.

In terms of the hedgerow marked as G6 it would appear that the original hedgerow was planted on the field side of the ditch and has spread towards the highway. Consideration should be given to carrying out work to reduce the hedgerow width back to something akin to its original proportions and clearing out the existing ditch to establish highway visibility splays. The creation of the new footway, adjacent to this hedgerow and between the proposed new combined vehicular and pedestrian access and the new pedestrian only access, to the south, is also considered to have a harmful impact on the character of the area.

Outline consent should not be granted unless the applicant can demonstrate that the new footway can be created without the need to remove existing trees and hedgerows.

Should planning permission be granted then a detailed soft landscaping plan and specification, including new tree planting, should be secured.

5. Representations

- 5.1 A total of 46 letters of support have been received which raise the following points:
- An attractive layout.
 - Nice to see the relationship shown with the possible bungalows close by to Meadow Close which shows good thought to the local area.
 - Local children are moving away because of house prices and also a lack of 3 bedroom homes and less in the area this application would go some way in helping Elmstead Market to rectify this situation.
 - The idea of restrictive covenants to prevent extending the houses is very interesting and shows a care for the longer term to make sure the house stay at the size they were intended.
 - It is refreshing to see the applicant showing the community benefits.
 - Need to approve the good schemes that bring positives to our area and this is one.
 - There is a real need for smaller starter homes in Tendring; it is nice to see a planning application that does not concentrate on large houses that are out of the price range for most people.
 - The development serves to improve the access of the approved application 14/01238/OUT. Residents do not wish for additional vehicles to pass through Meadow Close and welcome the opportunity that the Tye Road application offers by taking the extra traffic directly out onto Tye Road.
- 5.2 A petition of support signed by 36 people has been received. These people support the application as the development serves to improve the access of the approved application

14/01238/OUT. They do not wish for additional vehicles to pass through Meadow Close and welcome the opportunity that the Tye Road application offers by taking the extra traffic directly out onto Tye Road. The majority of the people who signed the petition have also written in a letter which has been included in the above paragraph.

6. Assessment

The main planning considerations are:

- Principle of Development
- Character and Appearance
- Landscape/Tree Issues
- Highway Issues/Access
- Footpath/Pedestrian Links
- Flood Risk and Drainage
- Biodiversity
- Community Facilities
- S106
 - Open Space
 - Affordable Housing
 - Education

Site Context

- 6.1 The site is situated to the east of Tye Road and the western edge of Elmstead. The application site is roughly rectangular in shape and measures 2.4 hectares. It is currently managed as an arable field and is bounded by a continuous mixed native hedgerow with individual mature trees.
- 6.2 To the north of the site is a detached residential property; to the east of the site is a development site to the north of Meadow Close which was subject to an outline planning permission (14/01238/OUT) for 20 dwellings which was granted. To the south of the site lies an agricultural field beyond which is Colchester Road. Tye Road forms the western boundary of the site.

Proposal

- 6.3 This application seeks outline planning permission for the development of up to 32 dwellings; land for a community facility and associated parking and infrastructure on land to the east of Tye Road, Elmstead. The application is in outline form with all matters reserved; therefore details such as access, appearance, landscaping, layout and scale are reserved for a future application.
- 6.4 An indicative site plan shows 32 dwellings and land for a community facility accessed from a single point along Tye Road, with a potential road and footpath access through to the adjacent development granted under 14/01238/OUT to the north of Meadow Close and a footpath along Tye Road linking to Colchester Road.
- 6.5 To support the application the following documents have been submitted:
- Design and Access Statement;
 - Ecological Assessment;
 - Transport Assessment;
 - Arboricultural Impact Assessment, and;
 - Flood Risk Assessment and Drainage Strategy.

Principle of Development

- 6.6 The application site is located outside of the defined settlement boundary as defined within the Tendring District Local Plan, 2007 which aims to direct new development to the most sustainable sites. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.7 Elmstead Market is identified as a village within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a modest amount of growth can be supported. Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.8 Elmstead Market is identified within Policy SD3 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014) as a Key Rural Service Centre, where such settlements will be the focus for small-scale employment and tourism related development that reflects their unique rural character, local housing and employment needs and physical, environmental and infrastructure constraints. In addition, these settlements will accommodate a sustainable, fair and proportionate increase in housing stock that will support the overall housing growth proposed for the district.
- 6.9 Given the limited weight that can be applied to the draft Local Plan, and the status of policy QL1, assessment of the principle of development falls to be considered under the NPPF.
- 6.10 Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective for 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.
- 6.11 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.
- 6.12 This view has also been supported by the Planning Inspectorate in a number of recent appeal decisions for similar outline schemes.
- 6.13 Members should note that whilst the Council has published the Tendring District Local Plan Proposed Submission Draft (2012), the document is yet to be submitted to the Secretary of State and 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 possibly be subject to change. When considered in relation to paragraph 216 of the Framework they may be afforded only limited weight.
- 6.14 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.
- 6.15 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.

6.16 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

6.17 Officers consider that the proposal would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants utilising local services, and so meets the economic arm of sustainable development.

Social

6.18 In terms of the social role, the site is within close proximity of the local amenities within Elmstead Market such as a new village convenience store, post office, restaurant, take-aways and petrol filling station within walking distance of the site. The site is also within walking and cycling distance of the local primary school and recreational area at Old School Lane. Elmstead Market is also on a bus route and there is a bus shelter on Colchester Road within walking distance of the site, with services to Clacton and Colchester. However, given the location of the site on the edge of the village better pedestrian links to the village are required otherwise it is considered that potential occupiers of the dwellings would not be encouraged to walk and instead use their vehicles.

6.19 It is noted that Elmstead Market has been identified as one of seven 'Key Rural Service Centres' within the district in Policy SD3 of the draft Local Plan. These are larger villages containing a relatively good range of local services and facilities with potential for limited growth in homes and jobs. For these settlements, the draft Local Plan identifies opportunities for the enhancement of village centres, public transport facilities and other community facilities. Whilst the policy has limited weight at this stage, it goes some way to illustrate the sustainability credentials for the village and the site.

6.20 Overall officers consider that subject to improved pedestrian links to the village the application site performs reasonably well in terms of the social role within the definition of sustainability. This is something that can be dealt with by condition at the outline stage and fully at reserved matters stage.

Environmental

6.21 The site is located close to the Settlement Development Boundary in the 2007 Plan and is immediately to the west of a site which has outline planning permission for residential development and was allocated as such in the 2012 Local Plan. This land is known as land to the north of Meadow Close, planning permission for 20 dwellings was granted under reference 14/01238/OUT. It is therefore considered that whilst the site appears somewhat detached from the existing settlement at present, that in the future it will be immediately adjacent and better related. Given the relationship of the site to existing and proposed development, it is considered that, in terms of settlement shape and form, development in this location is unlikely to have a significant detrimental impact (subject to consideration against other Local Plan policies).

6.22 For the above reasons, Officers consider that development of this site can be achieved in keeping with the aims and objectives of National Planning Policy Framework and therefore represents sustainable development.

Character and Appearance

- 6.23 This application is in outline form with all matters reserved. However, the description of development refers to up to 32 dwellings and the indicative layout submitted with the applications suggests that the development would comprise of up to 32 detached and semi-detached dwellings. Given that the site area is approx. 2.4 hectares, this would equate to a density of approx. 14 dwellings per hectares, this is a lower density than the surrounding development but given the edge of village location it is a density which is considered acceptable.
- 6.24 The indicative layout illustrates that 32 dwellings would comply with the Councils requirements with regard to parking provision and amenity space as set out in Saved Policy HG9 of the 2007 Local Plan, and the 2009 Parking Standards.
- 6.25 As the application is in outline form with all matters reserved the layout shown on the submitted plans is indicative only. However, it shows that the development can be achieved that would relate to the development to the north of Meadow Close and retain the rural character of Tye Road by providing a landscaped frontage. Furthermore it is considered that Tye Road will act as a natural termination for any future development.
- 6.26 Although design and appearance do not form part of the consideration of this outline application, it is considered that the site is capable of accommodating up to 32 dwellings in a way that would not result in any adverse impact on the character and appearance of the surrounding area.

Landscape/Tree Issues

- 6.27 All boundaries of the application site are delineated by hedgerow and trees. In order to show the extent to which these are a constraint on the development, to identify those trees and hedgerow that would need to be removed and the way that retained vegetation would be protected a Tree Survey has been provided by the applicant and the Councils Tree and Landscape Officer has been consulted.
- 6.28 It is the Tree and Landscape Officer's view that the trees on the eastern boundary and included in G20 of the tree report are important in terms of their amenity value and although most are identified for retention they are potentially at risk as a result of the development of the land and, more importantly from post development pressures. For this reason the trees have been made the subject of a tree preservation order: ref TPO/16/04.
- 6.29 The narrow strip of land adjacent to Tye Road running from the main body of the application site to Colchester Road includes an established hedgerow - G31 of the tree report. In terms of the value of the hedgerow the section between Colchester Road and the proposed pedestrian only access is considered to meet the criteria contained in The Hedgerow Regulations 1997 under which its 'importance' is assessed. The hedgerow contains at least 4 woody species listed in schedule 3 of the regulations and has 5 of the associated features listed in part 2 paragraph 7(4) a to g. That is: a) a bank supporting the hedgerow, b) less than 10% gaps, e) one tree every 50m, g) a ditch along at least half its length and i) a parallel hedge within 15m. In this regard the hedgerow is 'important' and should be retained.
- 6.30 As many of the trees in the southern section of the hedgerow are important features in their own right they have also been included in the new tree preservation order: ref TPO/16/04. A single Oak in G31 has also been included in the TPO.
- 6.31 The information submitted with the application identifies the removal of three trees (T5, T9 and T19), two groups of trees/hedgerows (G6 and G31) and one part of a group (G20).

- 6.32 Whilst the removal of the individual trees and the part of G20 will not have a significant detrimental impact on the character and appearance of the area, the removal of (G6 and G31) would, in itself, bring about a significant change to the character of Tye Road and the hedgerow removal, construction of the new footway in Tye Road, would have a harmful urbanising impact on the local landscape character.
- 6.33 It is considered that the majority of the development can occur without resulting in an adverse impact on trees or hedgerow especially those protected by Tree Preservation Orders. However, it is clear that the provision of a footway along Tye Road is not acceptable if it results in the loss of the hedgerow or the tree subject to a preservation order. This is discussed in more detail below under the heading 'footpath/pedestrian links'.

Highway Issues/Access

- 6.34 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).
- 6.35 A number of letters have been received supporting the application on the basis that the development serves to improve the access of the approved application 14/01238/OUT. Residents do not wish for additional vehicles to pass through Meadow Close and welcome the opportunity that the Tye Road application offers by taking the extra traffic directly out onto Tye Road. An access from Meadow Close for up to 20 vehicles was granted under application 14/01238/OUT as this site is in separate ownership it is not possible for the Council to ensure that the access onto Meadow Close is not implemented as a result of this development. It should be noted that the adjacent site only has outline planning permission however; the layout shown on the indicative plan for this current application is not what was previously indicated.
- 6.36 Essex County Council Highways have been consulted on the application. They raise no objection to the proposal subject to the following mitigation and conditions:
1. Prior to the first occupation of the development, the proposed estate road, at its bellmouth junction with Tye Road shall be provided with 10 metre radius kerbs returned to an access road carriageway width of 5.5 metres and flanking footways 2 metres in width returned around the radius kerbs. The new road junction shall be constructed at least to binder course prior to the commencement of any other development including the delivery of materials.
 2. Prior to the proposed access to Tye Road being brought into use, vehicular visibility splays of 181 metres northerly by 2.4 metres by 192 metres southerly as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction clear to ground.
 3. Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of 25 metres by 2.4 metres by 25 metres on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained free from obstruction clear to ground.
 4. Prior to commencement of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction in perpetuity.
 5. Prior to first occupation of the proposed development, a (communal) recycling/bin/refuse collection point shall be provided adjacent to the highway boundary and additionally clear of all visibility splays at accesses.

6. No unbound materials shall be used in the surface treatment of the proposed vehicular accesses within 6m of the highway boundary or proposed highway.
7. Prior to first occupation of the proposed development, each individual proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.
8. All carriageways should be provided at 5.5 metres between kerbs or 6.0 metres where vehicular access is taken but without kerbing.
9. All footways should be provided at no less than 2 metres in width.
10. All off street car parking shall be in precise accord with the details contained within the current Parking Standards.
11. Any garage provided with its vehicular door facing the highway or proposed highway, shall be sited a minimum of 6m from the highway boundary.
12. Prior to commencement of the proposed development, details of the provision for the storage of bicycles for each dwelling, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.
13. Prior to the first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Plan including the initial commitments; and amended and supplemented under the provisions of a yearly report. The Residential Travel Plan to include a commitment to provide a Travel Plan co-ordinator within the residential sales office to give advice to the new residents of the development.
14. The proposed connection to the adjoining proposed development under planning permission reference 14/01238/OUT shall be constructed straight for the first 10 metres within the site and an extension of the proposed carriageway and footways.

6.37 As this is an outline application with all matters reserved details of the access will be considered as part of the reserved matters application. Therefore all of the above conditions can be imposed with the exception of number 14. This condition would only meet the relevant tests of the NPPF if the development is part of a larger proposal and it is necessary to ensure that a comprehensive development is delivered. Whilst the Council would encourage a comprehensive development in this area, there are no specific policies that require it and on that basis it cannot be enforced.

6.38 Essex County Council Highways have also requested that the applicant is advised of the following by informative:

- a) There should be no vehicular access over any radius kerbs.
- b) The new carriageways should be provided with a centreline bend radius of 13.6m together with adequate forward visibility.
- c) Any trees provided within the adoptable highway will attract a commuted sum of no less than £750 per tree.
- d) The applicant should be requested to consider the provision and location of street lighting columns, particularly at road junctions, these should be within the adoptable areas.
- e) The proposed carriageway to enable future expansion of the site or access should be shown at no less than 5.5m in width together with 2.0m wide footways.
- f) Refuse freighters are unlikely to manoeuvre over Private Drives.
- g) 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.
- h) The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums

for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

- i) Should this proposal come forward as a FULL application the Highway Authority is likely to request the following infrastructure improvements to the bus stops located in the vicinity of Oatlands and Colchester Road.
- West bound stop; entry taper improved, circa 9metres of the existing layby filled in, a 5 metre section of raised level entry kerbing and new exit taper (existing shelter to be retained).
 - East bound stop; relocated circa 15 metres easterly.
 - Together with new posts, flags and timetables

Additionally, a pedestrian central refuge island in Colchester Road in the vicinity of its junction with Oatlands and the west bound bus stop to include localised carriageway widening and new sections of footway to the specifications of the Highway Authority.

- 6.39 These are all detailed matters that would be considered as part of any future application with the exception of point i) to be enforceable this would need to be imposed as a condition. Highways have no objection to this and the condition is recommended.

Footpath/Pedestrian Links

- 6.40 The indicative layout plan shows a footpath being provided along Tye Road from the site entrance to the junction with Colchester Road. As set out above under the heading Landscape/Tree Issues the loss of the hedgerow and tree subject to a TPO would not be supported. This is not considered to be fundamental to the outcome of this outline application as there are other options that can be explored to ensure the development is linked to the existing network and that future residents are encourage to walk to the local facilities. This can be covered by condition and dealt with in detail as part of a reserved matters application.

Flood Risk and Drainage

- 6.41 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.
- 6.42 The applicants have submitted a Flood Risk Assessment as part of the application which concludes that the site lies within an area of Flood Zone 1 which is at a low risk of flooding as defined by the Technical Guidance to the National Planning Policy Framework. The report also states that the there are no significant risks to the site from flooding by fluvial, tidal, overland, groundwater, sewers and artificial sources.
- 6.43 Essex County Council Flood and Water Management have been consulted on this application, following the submission of further information they do not objection to the proposal subject to a condition to ensure a detailed surface water drainage scheme; a maintenance plan detailing the maintenance arrangements of the surface water drainage system and yearly maintenance logs of maintenance of the surface water drainage system.
- 6.44 Subject to these conditions it is considered that the proposal would provide adequate provision for surface water drainage and not result in an increase in flood risk.

- 6.45 In addition, Anglian Water have commented upon the application, and confirmed that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary and that the foul drainage from this development is in the catchment of Thorrington Water Recycling Centre which will have available capacity for the flows. In terms of the foul sewerage network they advise that development may lead to an unacceptable risk of flooding downstream and that a drainage strategy outlining the pumped rate and specific connection point will need to be prepared in consultation with Anglian Water; this can be secured by condition.
- 6.46 Based on the details above, 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.

Biodiversity

- 6.47 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.
- 6.48 Natural England have been consulted on the application and have advised that if undertaken in strict accordance with the details submitted, it is not likely to have a significant effect on the interest features for which the Colne Estuary Phase 2 SPA, Colne Estuary Phase 2 Ramsar and Essex Estuaries SAC have been classified. They are also satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the Colne Estuary SSSI has been notified.
- 6.49 In support of the application an Ecological Assessment prepared by Eco-Planning UK has been submitted. This assessment concludes the following:
- The site is to the south of a recorded Priority Habitat (deciduous woodland). There is no mature woodland in this area; however recent woodland planting has been completed. The proposed development will not impact upon this new planting area, its trees or future conservation potential.
 - Most of the proposed development site is an intensive arable agricultural field with very little associated conservation value or biodiversity.
 - To all boundaries is a continuous mixed native hedgerow with numerous mature trees. This B.A.P Priority Habitat has conservation value and must be retained where possible with an associated management regime.
 - A bat roost assessment is required for any hedgerow tree that is to be removed as part of any approved site development.
 - A suitable bat friendly lighting design/scheme is required for any road/street scene illumination that could impact upon the retained hedgerow habitats.
 - A Badger assessment and sett presence or absence survey is required for the adjacent habitats to the back left boundary to determine if there could be a potential development/badger impact.
- 6.50 Given the above conclusions it is considered that there is no objection to the granting of this outline planning permission as it is only the boundary hedgerow that has potential to provide habitat for protected species and at this stage as the layout plan is indicative it is considered that any impact could be overcome.

Community Facilities

- 6.51 The description of development refers to land for a community facility and this is shown on the indicative plan as being to the north of the proposed access. Given the scale of development the provision of community facilities apart from open space cannot be insisted upon.

S106 Obligation

- 6.52 It is considered that a S106 agreement is required to cover the following:

1. Open Space Provision

- 6.53 Policy COM6 of the Adopted Tendring District Local Plan (2007) states that proposals for residential development on a site of 1.5 hectares and above are required to provide at least 10% of the gross site area as public open space. In exceptional cases where the District Council agrees that provision would be best met off-site and where existing open space facilities are inadequate to meet the projected needs of the future occupiers of the development a financial contribution in lieu of on-site provision may be made.
- 6.54 The Councils Open Space Department has confirmed that there is a deficiency of 4.51 hectares of equipped play/formal open space in Elmstead. There is one play area in Elmstead, located along Old School Lane. As this is the only play area in Elmstead it is already well used and further development will put added pressure on the facility. Due to the lack of facilities in the area it is recommended the on-site open space and play facilities in the form of a Local Area of Play (LAP) be provided within the development.

2. Affordable Housing

- 6.55 Saved Policy HG4 requires up to 40% of dwellings to be affordable housing on sites of 15 or more dwellings in urban settlements (with a population of 3,000 or more) and on sites of 5 or more dwellings in rural settlements (with a population less than 3,000). The National Planning Policy Framework requires Councils to consider economic viability when it applies its policies and the Council's own 2013 viability evidence in support of the Local Plan demonstrates that 40% affordable housing is unlikely to be viable in Tendring and that between 10% and 25% (as contained within emerging Policy PEO10) is more realistic. The thresholds under Saved Policy HG4 will therefore be applied but the percentage will be between 10% and 25% as detailed under emerging Policy PEO10.
- 6.56 Due to forthcoming legislation, the Council will not be in a position to purchase any of the units for affordable housing, even at a discounted price. As an alternative the Council would prefer to be gifted 2 properties on the site.

3. Education

- 6.57 On the basis of 32 homes, assuming all units have 2 bedrooms or more, the proposal would generate a need for up to 2.8 Early Years and Childcare (EY&C); 9.6 primary school and 6.4 secondary school places.
- 6.58 According to Essex County Council's childcare sufficiency data, there are sufficient early years and childcare places within the Thorrington Ward to accommodate children generated by this development.

- 6.59 The Tendring Primary Group 3 forecast planning group is forecast to have a deficit of 61 permanent places by the school year 2019-20. Based on the demand generated by this proposal a developer contribution of £117,293 (index linked to April 2016) is sought to mitigate the impact on local primary school provision.
- 6.60 The nearest secondary school 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 forecast planning group. Prior to the implementation of the revised Community Infrastructure Levy Regulations in April 2015 the County Council would have sought a developer contribution from this proposed development for additional secondary school places. However, the implementation of the revised regulations now restrict the pooling of 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.
- 6.61 The above Heads of Terms have been agreed with the applicant, and a section 106 agreement will need to be drafted by solicitors to accommodate these provisions following a decision from the Committee to grant outline planning permission.

Conclusion

- 6.62 In the absence of an up-to-date Local Plan and the subsequent need to consider the proposal against the NPPF presumption in favour of sustainable development, the proposal achieves an appropriate balance between economic, social and environmental considerations. It is considered that the proposal represents sustainable development.
- 6.63 It is considered that the site is capable of accommodating up to 32 dwellings (depending on size and design) whilst resulting in no significant material harm to the character of the surrounding area, biodiversity or protected species, preserving the amenities of neighbouring residents and meeting the requirements of Essex County Council Highways.
- 6.64 There are outstanding issues about the footpath along Tye Road and pedestrian links to the village facilities; however, these are issues that can be dealt with as part of a future reserved matters application.

Background Papers

None.