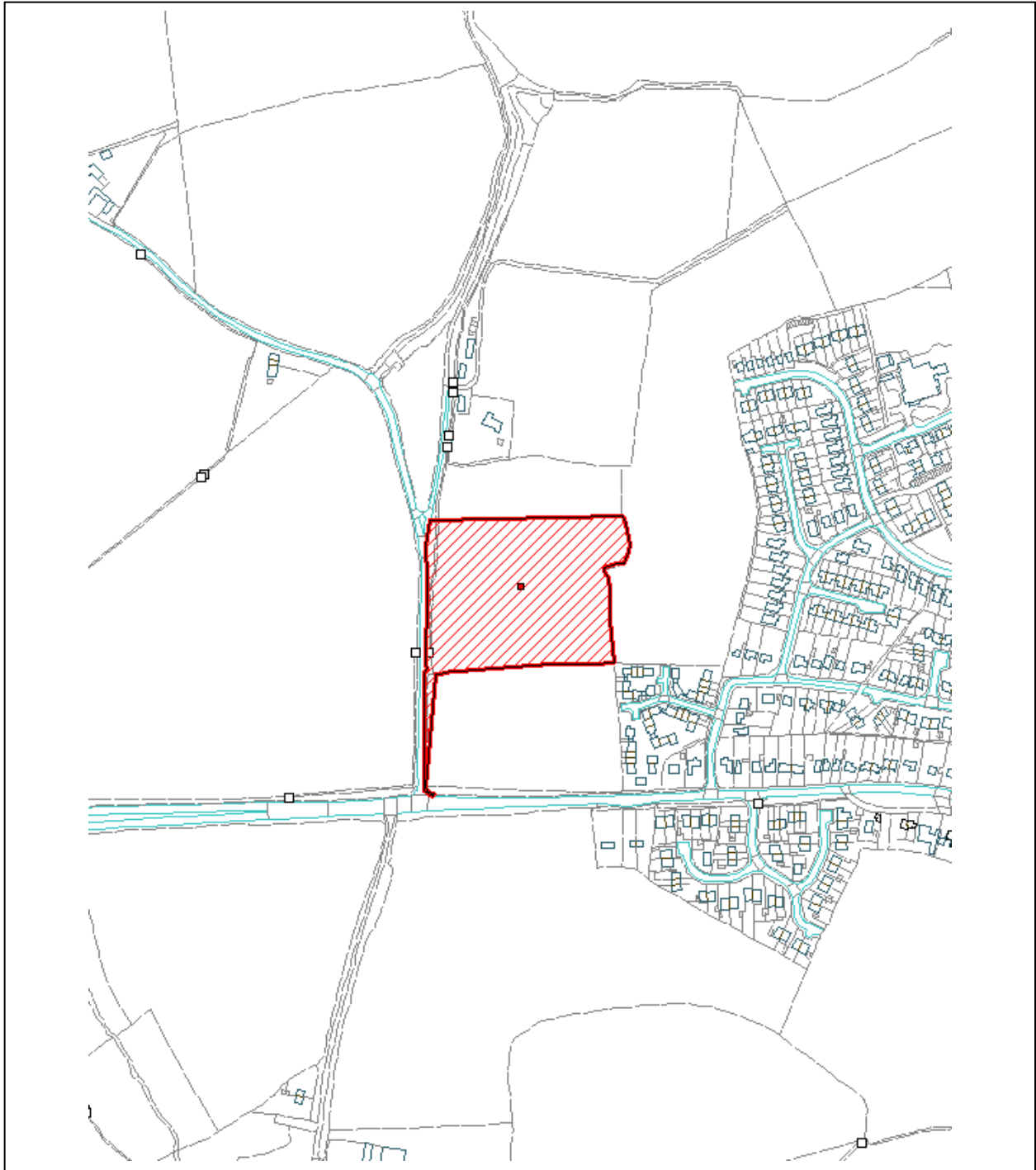


PLANNING COMMITTEE

9<sup>th</sup> April 2019

REPORT OF THE HEAD OF PLANNING

**A.1 PLANNING APPLICATION - 18/01307/DETAIL - LAND TO THE EAST OF TYE ROAD ELMSTEAD CO7 7BB**



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<b>Application:</b>	18/01307/DETAIL	<b>Town / Parish:</b> Elmstead Market Parish Council
<b>Applicant:</b>	Mr Williams	
<b>Address:</b>	Land to The East of Tye Road Elmstead CO7 7BB	
<b>Development:</b>	Reserved matters application for 32 dwellings, land for a community facility and associated parking and infrastructure.	

## 1. **Executive Summary**

- 1.1 The application is referred to Planning Committee because at the time the outline application was determined a request was made by Members for all reserved matters applications to be determined by Planning Committee.
- 1.2 Outline application 16/00219/OUT sought consent for the erection of up to 32 dwellings, land for a community facility and associated parking and infrastructure. This application was granted at appeal in April 2017, with all matters of detail reserved. Application 17/00927/DETAIL granted consent for the reserved matters in relation to access only. This application seeks consent for the remaining reserved matters: appearance, landscaping, layout and scale.
- 1.3 **This application was deferred by Planning Committee on 12<sup>th</sup> February 2019 in order for written legal advice to be sought in respect of the need for a Habitats Regulation Assessment and the impact that would have on the Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) contribution requested by Natural England, if any.**

**Updates to the original report are shown in bold.**

- 1.4 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.
- 1.5 As established through the granting at appeal of outline application 16/00219/OUT, the principle of residential development for up to 32 dwellings, land for a community facility and associated parking and infrastructure on this site is acceptable. Details of access have also been approved under application 17/00927/DETAIL.
- 1.6 The detailed design, layout, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety and the application is recommended for approval.

**Recommendation:** Approval

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

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

- **Financial Contribution towards RAMS**

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).

**Conditions:**

- In accordance with approved plans
- Materials
- Turning facility to be provided prior to first occupation and retained
- No unbound material within 6 metres of the carriageway
- Details of proposed private drive
- Notwithstanding approved plan, gates to be inward opening only and set back at least 6 metres from footway or carriageway
- Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splays.
- Details of cycle parking
- Timing of landscaping

**2. Planning Policy**

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

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 2013-2033 and Beyond Publication Draft (June 2017)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

## Status of the Local Plan

- 2.1 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.2 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.
- 2.3 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 2.4 In relation to housing supply:
- 2.5 **The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.**

## 3. Relevant Planning History

16/00219/OUT	Outline planning application for residential development of up to 32	Allowed at Appeal	27.07.2016
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dwellings, land for a community facility and associated parking and infrastructure.

16/01950/OUT	Outline planning application for residential development of up to 32 dwellings and associated open space, car parking and infrastructure.	Withdrawn	26.04.2017
17/00927/DETAIL	Reserved matters application for construction of new access to serve housing development approved under 16/00219/OUT.	Approved	12.03.2018
18/00681/DETAIL	Reserved matters application for construction of new access to serve housing development approved under 16/00219/OUT (amendment to application 17/00927/DETAIL).	Refused	31.07.2018
18/01307/DETAIL	Reserved matters application for 32 dwellings, land for a community facility and associated parking and infrastructure.	Current	

#### 4. Consultations

Tree & Landscape Officer In terms of the potential impact of the development proposal on the Oak trees on the land afforded protection by Tree preservation Order TPO/16/04 the details contained in the soft landscaping proposals plans states that all tree protection will be in accordance with the Tree Survey and report submitted with the outline application. In this respect the protected trees will not be harmed by the development proposal.

With regard to soft landscaping the information provided by the applicant shows a good level of new tree, shrub and hedge planting that will both soften and enhance the appearance of the development.

The creation of the new vehicular access from Tye Road will result in the removal of part of the Blackthorn Hedgerow although, taking into account new planting proposals this will not have a significant detrimental impact on the character of Tye Road or surrounding area.

With regard to the proposed access road and pedestrian link to the adjacent eastern development this will result in the removal of a small part of the group on mixed species. This issue was recognised at the outline planning stage and was not considered to have a detrimental impact on the integrity of the group of trees or the appearance of the area.

The information provided relating to soft landscaping is comprehensive and provides a good level of tree, shrub and hedgerow planting. The proposed soft landscaping will enhance the

appearance of the development and help to ensure that it sits comfortably in its setting.

ECC Highways Dept

From a highway and transportation perspective the impact of the proposal has been assessed and this Authority does not wish to raise an objection to the above application subject to the following conditions:

Prior to the first occupation of the development, the proposed road junction at its bell mouth junction with Tye Road shall be constructed at right angles to the highway boundary and to the existing carriageway as shown in principle in the Preliminary Site Plan, drawing no. 4115-0001 P18 to a carriageway width of 5.5 metres with 2 metre width footways on both sides of the junction.

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access.

Prior to first occupation of the development, the road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 120 metres to the north (bend) and 2.4 metres by 160 metres to the south as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of obstruction above 600mm at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway.

Prior to first occupation of the development the size 3 vehicular turning facility shown in principle in the Preliminary Site Plan, drawing no. 4115-0001 P18 shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

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

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the adjacent carriageway.

Reason: To avoid displacement of loose material onto the carriageway in the interests of highway safety.

Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

Each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

All single garages should have a minimum internal measurement of 7m x 3m. All double garages should have a minimum internal measurement of 7m x 5.5m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety.

Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Footway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway.  
Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

There shall be no discharge of surface water onto the Highway.  
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the footway or where no provision of footway is present, the carriageway.  
Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety.

Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splays.  
Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.  
Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.  
Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the



adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway.

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

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

Building Control and  
Access Officer

No comments at this time

Environmental Protection

Prior to the commencement of any site clearance, demolition or construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from the Pollution and Environmental Control. The method statement (Demolition/Construction Management Plan) should include the following:

#### Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will as a minimum requirement, be compliant with the standards laid out in British Standard 5228:2014.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Local Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

#### Emission Control

- 1) A scheme of measures for the control and suppression of dust emissions shall be submitted to and approved in writing by the Local Planning Authority. Such agreed works shall be implemented in the

approved form prior to the commencement of any development of the site and shall be maintained in the approved form until the development is completed and ready to be signed off as complete for the permitted purpose

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

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

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

#### Dust Control

1) Dust suppression methods to be employed during construction so as to minimize likelihood of nuisance being caused to neighbouring properties. A scheme of measures for the control and suppression of dust emissions shall be submitted.

#### Lighting Control

1) Any lighting of the site under development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Professionals.

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

ECC SuDS Consultee

Having reviewed the documents which accompanied the reserved matters planning application, acting on behalf of ECC we do not object to the approval of reserved matters. However, at this time we cannot recommend discharge of condition no. 8 due to outstanding information required to form part of the detailed drainage design scheme.

Natural England  
**(Original comments)**

It has been identified that this development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased

recreational pressure when considered 'in combination' with other plans and projects.

The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring District Council working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.

This proposal falls below the scale at which Natural England would offer bespoke advice on this issue. However, we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation, consulting with Natural England where necessary. You should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

Natural England  
(amended comments)

We do not need to be consulted on the Appropriate Assessment for developments of houses under 100 units provided a financial contribution has been secured in line with the Essex Coast RAMS requirements and that the Council records evidence that this mitigation measure has been secured in the 'Summary' section of the HRA.

Anglian Water Services  
Ltd

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

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

Have reviewed the applicant's submitted foul drainage strategy documentation and consider that the impact on the public foul sewerage network has not been adequately addressed at this stage. Anglian Water have found that this proposal may result in an increased risk of flooding in the downstream network. They note a pumped regime will be implemented, but no confirmed pump rate has been provided for the site to conduct an accurate assessment at this time.

Have reviewed the applicant's submitted surface water drainage information (Flood Risk Assessment/Drainage Strategy) and have found that the proposed method of surface water discharge does not relate to an Anglian Water owned asset. As such, it is outside of our jurisdiction and we are unable to provide comments on the suitability of the surface water discharge. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board.

Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval.

- No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local

Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent environmental and amenity problems arising from flooding.

Essex Police – Designing out Crime

The published documents have been studied and, unfortunately, do not provide sufficient detail to allow an informed decision to be made as to whether the appropriate consideration of Sections 58 & 59 of the National Planning Policy Framework has been achieved, however the proposed site plan does show the dwellings seem to be positioned well for good natural surveillance while protecting the vulnerable rear of the properties by having the gardens backing directly onto other gardens. To ensure this development is a safe, secure place to live, e.g. uniform lighting without dark areas, effective physical security on each property, garden gates sited as near as possible to the front of the property.

It is recommended that the applicant incorporate Crime Prevention through Environmental Design and apply for nationally acknowledged and police recommended Secure By Design accreditation.

## 5. Representations

### 5.1 Elmstead Parish Council (comments on original proposal)

- Preliminary site plan 0001 P11 shows a possible link in the south-east corner to the adjacent development which has outline planning permission (14/01238/OUT). The landowner of the adjacent site is in the process of selling it but has confirmed to the Parish Council that he will be retaining a strip of land between his site and the above site, so there is no possibility of any link. In these circumstances we request that a revised plan be drawn up to show the site layout without this link road feature, especially as the Design and Access Statement refers to the layout relying 'strongly' on this feature.
- Following on from the above it is therefore imperative that the footpath as described in condition 1 of the approved planning application 17/00927/DETAIL is provided by the developer. This footpath is crucial for safe pedestrian access to the village, as there will be no other pedestrian link.
- The title of the application includes land for a community facility but none has been specified on plan 0001P11. There is a white area to the north east and we have asked the development if this is land for the community facility and whether it will be gifted to the Parish Council. This is unclear on the current plan and application documents. We have been advised by the developer that in the event of the access to the southeast being unavailable he feels this land would be inaccessible to the local community and therefore is unlikely to offer the facility. This seems extraordinary in view of the application title including reference to community land.
- The Parish Council objects to the parking arrangements where 'parking courts' are indicated there are out of date and have been proven to create anti-social areas within estates. Some residents will prefer to park on the road nearer their houses and will do so, causing potential hazards and preventing access to emergency vehicles. We therefore request a re-design of the parking provision. We request 2 parking spaces per property to be located on each premises, rather than parking courts. We feel that parking courts are

only included due to over-development of the site. There should also be more visitors parking.

- A further feature which indicates overdevelopment is that several of the homes have plots which appear to be undersized according to the Local Plan currently in place. We understand that all houses of 2 or more bedrooms should have gardens of 100 sq.m as a minimum. Plots 13, 12, 15, 19, 20 and 32 all show gardens considerably less than this minimum.

#### 5.2 Elmstead Parish Council (comments on amended plans)

- The council thinks that the emphasis for affordable housing should be for 1 and 2 bedroom homes which are suitable for first time buyers. To be in keeping with the development these could be 1 or 2 bedroom houses. The council is concerned that the new plans have removed the 2 x 1 bedroom homes previously included.

#### 5.3 One letter of objection has been received which raises the following concerns:

- Affordable housing for first time buyers is needed; the proposed 3 and 4 bed homes do not achieve this.
- The possible link road is still shown – but the final plans for the adjacent development north of Meadow Close have already been submitted showing no such link, either for vehicle or pedestrians, the road is redundant and therefore should be absorbed into the adjacent play area.
- The title of the application indicates land for community use and whilst there are areas of public open space there is now no provision of land for community use.

## 6. **Assessment**

### 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 and land which is subject to a current appeal for a further 18 dwellings (18/00512/OUT). 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 that was granted; the reserved matters application (18/01810/DETAIL is currently under consideration.

### Planning History

- 6.3. Outline planning permission for 32 dwellings, land for a community facility and associated parking and infrastructure was granted at appeal on 6<sup>th</sup> April 2017 (16/00219/OUT). This application was subject to a legal agreement and a number of conditions, including that details of the access, appearance, landscaping, layout and scale be submitted. The legal agreement secured the following:
- The construction of an estate road (including footways) to an adoptable standard from Tye Road to the eastern boundary of the site.
  - A financial contribution of £12,218.00 towards Primary Education
  - The provision of 25% on site affordable housing; and

- The laying out of the open space in accordance with details agreed by the Council and transfer to a Management Company to be maintained in accordance with agreed details.
- 6.4. Following this approval a reserved matters application for details of access only was submitted (17/00927/DETAIL). This application was approved by Planning Committee on 27<sup>th</sup> February 2018, subject to a condition requiring the footpath and highway works to be provided prior to development commencing. A further application was submitted (18/00681/DETAIL) to vary the timing of the footpath and highway works from prior to development commencing to prior to any dwelling being occupied. This application was refused by Planning Committee on the basis that the construction traffic generated by the development would result in an adverse impact on pedestrian safety along Tye Road. This concern was overcome by a condition imposed on 17/00927/DETAIL which required the proposed footpath to be constructed prior to commencement of development and therefore to construct the footpath prior to first occupation would result in an adverse impact on pedestrian safety.

#### Proposal

- 6.5. This application seeks approval of the reserved matters (appearance, landscaping, layout and scale) relating to outline planning permission 16/00219/OUT which granted permission at appeal for the erection of 32 dwellings, land for a community facility and associated parking and infrastructure.
- 6.6. The proposal seeks permission for 32 dwellings; 17 no. 2 bed dwellings; 6 no. 3 bed dwellings and 9 no. 4 bed dwellings. Out of the dwellings proposed 3 are bungalows; 3 are one and a half storey and the remaining 26 are two storey in height.
- 6.7. The access points to the site remain as approved under 17/00927/DETAIL; a single point of vehicular access serves all dwellings and there is a separate pedestrian access onto Tye Road. Throughout the site there are 3 areas of open space an area to the north of the access (which includes a pumping station); an area to the south of the access and adjacent to the southern boundary of the site, which forms part of the drainage solution and a Local Area of Play in the south-east corner of the site.
- 6.8. The legal agreement secured at outline stage (referred to above) will still apply, together with all the conditions that were imposed by the Planning Inspector and outline stage and those imposed on the reserved matters application for the access (17/00927/DETAIL).

#### Principle of Development

- 6.9. The principle of development on the site for 32 dwellings, land for a community facility and associated car parking and infrastructure has been established by the granting of outline consent at appeal (16/00219/OUT). The details of the access have also been agreed under application 17/00927/DETAIL.
- 6.10. It is noted that the description of development refers to a community facility; however, as advised at the time of the outline consent, given the scale of development the provision of community facilities apart from open space could not have been insisted on and therefore was not secured by the legal agreement at outline stage.

#### Appearance

- 6.11. The detailed design of the dwellings is varied with different roof forms, heights and materials, which will provide visual interest throughout the development. The proposed materials are a mixture of red and buff facing brick, plain tiles, natural slate and pantiles; these are considered appropriate in principle. However, a condition is recommended to require samples of materials to be submitted to ensure high quality materials are used.

- 6.12. The surrounding area is very rural in nature with no residential dwellings within the immediate vicinity of the site. The proposed dwellings are all fairly traditional in appearance and detailing, with Plots 29-32 in particular using design features of other dwellings on the edge of Elmstead. The other dwellings are of good design and are not out of character with the surrounding area.
- 6.13. For the above reasons it is considered that the detailed design and appearance of the proposed dwellings are acceptable.

#### Layout

- 6.14. Each of the proposed dwellings has their own private amenity space. Policy HG9 of the Saved Local Plan requires 75 sq.m of private amenity space for 2 bed dwellings and 100 sq.m of private amenity space for dwellings with 3 or more bedrooms. All dwellings are provided with garden areas which meet or in many cases exceed this standard.
- 6.15. All of the proposed dwellings address the street and create an active street frontage. There are some dwellings that have side elevations facing the street, but these have been designed so that they also create an active frontage (with side entrance doors and windows).
- 6.16. The layout provides the majority of parking within the curtilage of the proposed dwellings there are a few areas where parking courts are used. Whilst these are not an ideal solution they are small clusters and are located in areas where they would not be prominent within the street scene.
- 6.17. In conclusion there is no objection to the layout of the proposed development.

#### Scale

- 6.18. The proposal includes a mix of single storey bungalows, one and a half storey dwellings and two storey dwellings. It is noted that the nearest development (Meadow Close) comprises of bungalows however, there is sufficient distance for 2 storey development on the site not to appear out of character with the surrounding area.

#### Highway Safety/Parking

- 6.19. Essex County Council Highways have been consulted on the application and raise no objection subject to conditions set out above, which cover details of the access; vehicular visibility; turning facilities; no unbound materials; sizes of parking spaces and garages; the width of private drives; no surface water discharge onto the highway; location of gates; location of boundary planting; cycle parking; provision of residential travel packs and a construction method statement.
- 6.20. As this is a reserved matters application some of the recommended conditions have been dealt with by either the outline application or the previous reserved matters application for access. The outline application is subject to conditions regarding the submission of a construction method statement and details of surface water drainage. The details of the proposed access have been dealt with under application 17/00927/DETAIL therefore it is not necessary to impose conditions regarding details of the access and vehicular visibility.
- 6.21. The submitted plan shows that all parking spaces and garages meet the required standard and therefore it is not necessary to impose further conditions apart from that requiring the development to be carried out in accordance with the approved plans. The provision of residential travel packs, if considered necessary should have been imposed at outline stage; it is not considered reasonable to impose such a condition at this time. All the

remain conditions recommended by highways cover turning facilities; no unbound materials; the width of private drives; location of gates; location of boundary planting and cycle parking are included within the above recommendation.

- 6.22. Essex County Council Parking Standards state that for one bedroom dwellings 1 off-street parking space is provided and for dwellings with 2 or more bedrooms a minimum of 2 off-street parking spaces are provided. Furthermore, 0.25 spaces per dwelling should be provided for visitor parking. Each parking space should measure 5.5 metres by 2.9 metres and if a garage is to be relied on it should measure 7 metres by 3 metres internally.
- 6.23. All of the proposed dwellings have at least 2 off-street parking spaces, either in the form of a garage or designated off-street parking space. Some of the proposed dwellings have parking provision in excess of the standards with space for 3 or 4 cars. A total of 8 visitor parking spaces are provided which is in accordance with the Council's Adopted Parking Standards.
- 6.24. No details of any cycle storage has been provided at this stage, however, a condition is recommended to cover this. The garages are of a sufficient size to provide cycle parking and all dwellings have space within the garden area for a shed. It is therefore considered that adequate cycle parking can be provided.
- 6.25. For the above reason the application is considered acceptable in terms of highway safety.

#### Landscaping/Biodiversity

- 6.26. In terms of the potential impact of the development proposal on the Oak trees on the land afforded protection by Tree preservation Order TPO/16/04 the details contained in the soft landscaping proposals plans states that all tree protection will be in accordance with the Tree Survey and report submitted with the outline application. In this respect the protected trees will not be harmed by the development proposal. The information provided relating to soft landscaping is comprehensive and provides a good level of tree, shrub and hedgerow planting. The proposed soft landscaping will enhance the appearance of the development and help to ensure that it sits comfortably in its setting.
- 6.27. To safeguard the ecological value of the site, a condition for a mitigation scheme was conditioned. At the time of the outline consent Natural England raised no objection as the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) was not published
- 6.28. **Since the application was deferred a written legal opinion has been received.** Detailed legal advice is exempt information for the purposes of Schedule 12A of the Local Government Act 1972 (as amended) however, the public interest test has been applied and it is considered in the public interest that a summary of the legal advice will be presented to the Planning Committee for the purposes of considering the Report and Recommendations.
- 6.29. In summary the legal opinion **advises that there is an ongoing duty on a Local Planning Authority to consider whether a Habitat Regulations Assessment (HRA) is necessary and/or should be updated and any results of the HRA, such as mitigation, amended accordingly. As a result of this the Council has concluded it is necessary for a HRA to be done at reserved matters stage, i.e. prior to the determination of this application. Once this advice was received a HRA was carried out that suggested that the impact of recreational disturbance could be mitigation secured by condition. A general response has been received from Natural England raising concerns with this approach and further legal advice has been sought which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The HRA has**



therefore been amended to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The recommendation seeks to secure this by way of legal agreement within six months of a Committee resolution to approve, otherwise planning permission would be refused in its absence on the grounds that there is no certainty that the development would not adversely affect the integrity of European Designated Sites. The applicant has indicated that they will pay the RAMS level contribution.

#### Impact on Residential Amenity

- 6.30. It is considered that the proposal would result in no material harm to residential amenity of existing occupiers. The relationship between the proposed dwellings is also considered acceptable with adequate separation to provide good standards of privacy and light.

#### Drainage

- 6.31. With regard to foul water drainage Anglian Water have raised concern that the impact on the public foul sewerage network has not been adequately addressed at this stage and recommend imposing a condition. A similar condition was imposed on the outline consent and this will still apply and will need to be discharged prior to the commencement of development. Surface water drainage was also dealt with as a condition on the outline consent.

#### Affordable Housing

- 6.32. The legal agreement with the outline application secured the provision of 25% on site affordable housing. The site plan indicates the position of these dwellings; they will be 4 no. 2 bed dwellings; 3 no. 3 bed dwellings and 1 no. 4 bed dwelling. This mix has been agreed by the Council's Housing Department.
- 6.33. Policy LP5 of the Emerging Plan states that 'to avoid an over-concentration of council housing in one location, no single group of council houses will exceed ten dwellings and to ensure positive integration between the residents of council housing and market housing, there should be no noticeable difference in the appearance or quality between dwellings to be sold on the open market and those to be acquired and managed by the Council or its nominated partner(s)'. The affordable housing is located to the east of the site in a cluster of 8 units, which complies with the above policy. In terms of the design of the affordable housing units, they would not appear any different to other dwellings proposed especially as a terrace of properties is also provided at the front of the site (albeit a different design). It is appreciated that these units have some of the smaller gardens within the development and do not have curtilage parking, however, the gardens meets the standards set out in Policy HG9 and they are not the only dwellings within the site to not have curtilage parking.

#### Conclusion

- 6.34. Overall the details submitted with this application are considered to be acceptable and their approval is recommended.

#### Background Papers

None