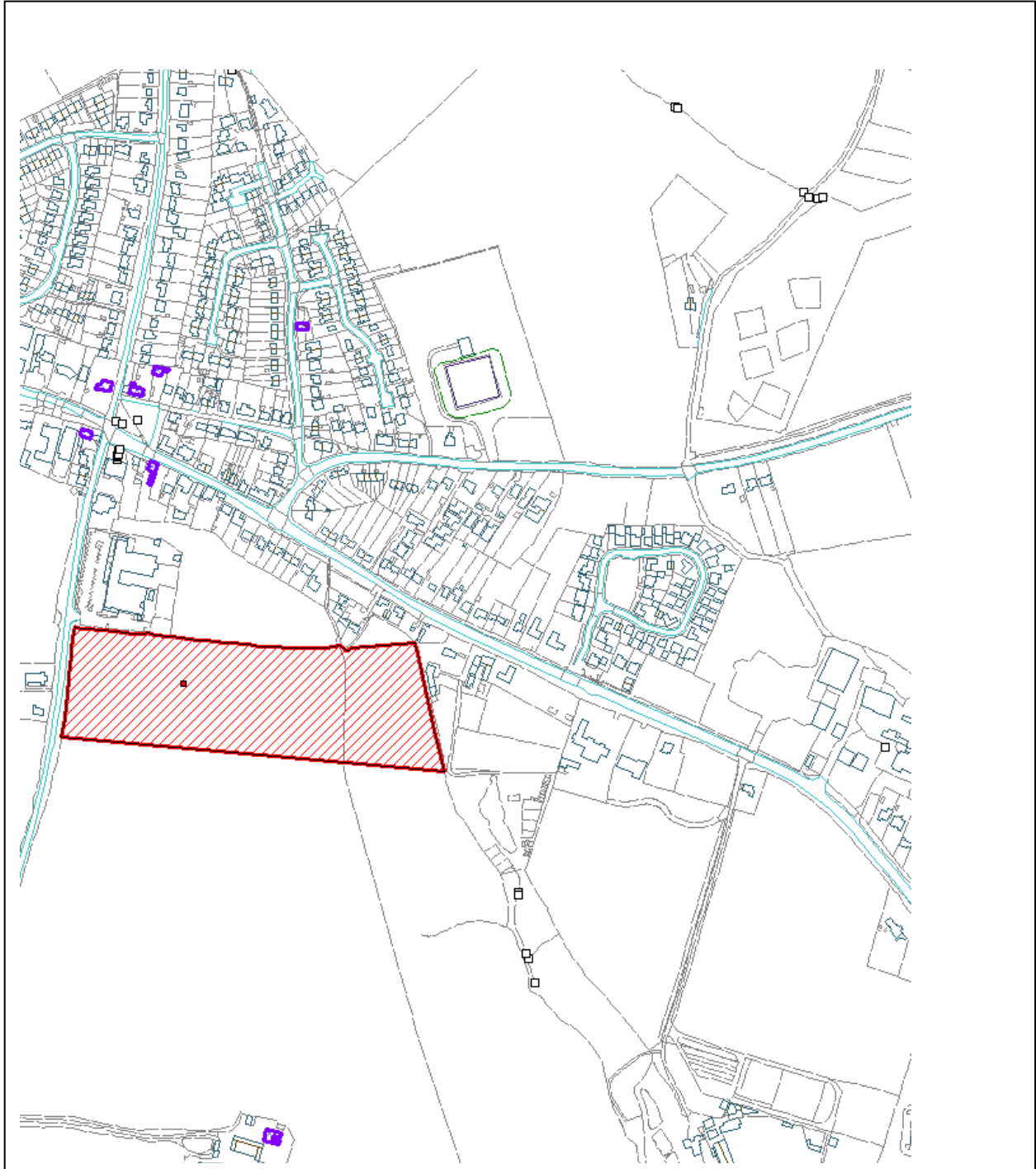


PLANNING COMMITTEE

17<sup>th</sup> DECEMBER 2019

REPORT OF THE HEAD OF PLANNING

**A.1 PLANNING APPLICATION – 19/00791/DETAIL – LAND EAST OF SCHOOL ROAD  
ELMSTEAD CO7 7ET**



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**Application:** 19/00791/DETAIL

**Town / Parish:** Elmstead Market Parish Council

**Applicant:** Mr J Hills - Hills Residential

**Address:** Land East of School Road Elmstead Essex CO7 7ET

**Development:** Reserved matters application for the erection of 62 dwellings, associated garaging, parking and infrastructure.

## 1. **Executive Summary**

- 1.1 This application has been referred to Planning Committee at the request of Councillor Scott due to concerns about the negative impact on urban design/street scene, highways impact and other traffic issues.
- 1.2 The site benefits from extant outline planning permission, with all matters reserved, for 62 new homes and associated open space, as allowed on appeal on 5 February 2018.
- 1.3 It is considered that in respect of Access, Appearance, Layout, Scale and Landscaping, the application has demonstrated that the development would be of high quality, would respond to its surroundings and would be sustainable and as such, Reserved Matters can be agreed subject to: the completion of a legal obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure a financial contribution to mitigate direct recreational impacts at European designated sites, and a number of planning conditions.
- 1.4 If the Committee endorses this recommendation, conditions would be imposed relating directly to the reserved matters under consideration, whilst conditions attached to the outline approval would still apply. The legal agreement for the original application which secures affordable housing, education and open space contributions/requirements would also still apply.

### **Recommendation:**

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

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):**
  - **Financial Contribution towards RAMS**
- b) Subject to the conditions stated in section 8.2
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

## 2. Planning Policy

The following Local and National Planning Policies are relevant to this planning application.

### *Tendring District Local Plan 2007*

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
HG1	Housing Provision
HG3	Residential Development within Defined Settlements
HG3A	Mixed Communities
HG4	Affordable Housing in New Developments
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM2	Community Safety
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM23	General Pollution
COM26	Contributions to Education Provision
COM29	Utilities
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

EN12	Design and Access Statements
EN13	Sustainable Drainage Systems
EN29	Archaeology
TR1A	Development Affecting Highways
TR3A	Provision for Walking
TR4	Safeguarding and Improving Public Rights of Way
TR5	Provision for Cycling
TR6	Provision for Public Transport Use
TR7	Vehicle Parking at New Development

*Tending District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)*

SP1	Presumption in Favour of Sustainable Development
SP4	Providing for Employment & Retail
SP5	Infrastructure & Connectivity
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP1	Improving Health and Wellbeing
HP4	Safeguarded Local Greenspace
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable and Council Housing
PP12	Improving Education and Skills
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage

PPL7	Archaeology
CP1	Sustainable Transport and Accessibility
CP3	Improving the Telecommunications Network

*Essex Design Guide*

*Essex County Council Car Parking Standards - Design and Good Practice*

**Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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.

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.

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.

In relation to housing supply:

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**

16/01797/OUT	Outline application for the erection of 62 dwellings, associated garaging, parking and infrastructure.	20.04.2017
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**4. Consultations**

ECC Highways	From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to a number of conditions and informatives.
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Essex Police	Recommend the applicant incorporate Crime Prevention through Environmental Design and apply for the police preferred Secured by Design accreditation.
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ECC SuDS Consultee	Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, ECC SuDS do not object to the granting of planning permission based on the following conditions: Condition 1
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No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to 2l/s for all storm events up to an including the 1 in 100 year rate plus 40% allowance for climate change.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Sediment control before the open attenuation feature, such as a sediment forebay.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to

occupation.

#### Reason

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

To ensure the effective operation of SuDS features over the lifetime of the development.

To provide mitigation of any environmental harm which may be caused to the local water environment.

Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

#### Condition 2

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

#### Reason

The National Planning Policy Framework, paragraph 163 and paragraph 170, state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

#### Condition 3

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water

drainage system and the maintenance activities/ frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

#### Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

#### Condition 4

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

#### Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

We also have the following advisory comments:

- You may require ordinary watercourse consent. Please see the following link:  
<https://flood.essex.gov.uk/maintaining-or-changing-a-watercourse/apply-for-a-watercourse-consent/>
- As the ground water is within 1 metre of the base of the attenuation feature, there will not be sufficient treatment if infiltration is to occur. Therefore the hybrid approach is not acceptable.

#### INFORMATIVES:

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).



Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

## **5. Representations**

5.1 Elmstead Parish Council has made the following comments on the application:

### Swale Location

The Council think that the swale would be better placed at the far eastern boundary where the land is lowest and creates a natural buffer with the adjacent property. It currently lies right up against a PROW and could be a health and safety issue for those using the footpath.

Paragraph 1.0 Executive Summary of the Design & Access Statement for the outline application 16/01797/OUT included the following provisions which are missing from the Design & Access Statement and site plan for the current application:

### Reduction of benefits for Market Field School

In addition to the respite home Market Field School was to be provided with allotments and a poly tunnel for educational purposes. The original site plan also included a school area and 2 sheds. Why have all these benefits been removed?

### Covenant on home extensions

It was stated that there would be a covenant placed on the homes to ensure that they cannot be extended, which is not mentioned in the current application.

### Trust Housing

The possibility of Trust housing remaining under local control, to ensure local people get the first opportunity for the affordable housing. The council is in favour of this but it is not mentioned in the current application.

### Public Open Space

The provision of land for a new public open space area. It is difficult to see what public open space is being provided. The local area for play space has been drastically reduced, and there is not much other public open space. The council does not agree that a swale area can be called or appreciated as public open space.

1 letter of representation has been received from a local resident recommending that the swale be moved nearer to the eastern boundary away from the public footpath for safety reasons and this would form a buffer between the development and the paddocks next to the eastern boundary, where currently there are nine horses on the adjacent field.

## 6. Assessment

### The Site

- 6.1 The application site comprises of 4.37 hectares of oblong shaped arable agricultural land located to the south of Elmstead Market and just outside the existing Development Boundary for the village. The Market Field School is located immediately to the north of the application site. Site access is taken directly from School Road. The eastern end of the application site also partially adjoins existing residential development fronting Clacton Road.

### The Proposal

- 6.2 This application seeks reserved matters consent in relation to access, appearance, landscaping, layout and scale, following approval on appeal of an outline application (with all matters 'reserved') for 62 dwellings under planning permission ref. 16/01797/OUT.
- 6.3 The proposal is for the development of 62 dwellings as per the limit on the outline permission, principally comprising two-storey detached houses, but with a smaller element of two-storey semi-detached and terraced units, and the provision of five detached bungalows. As per a condition imposed on the outline approval (condition 17), one of the bungalows (plot 62) will be made available for use by Market Field School as a respite house for parents of pupils at this specialist school. The proposal also includes areas of open space along the northern boundary of the site and a larger 'oval shaped' informal open space with central swale to the rear/eastern end of the site.
- 6.4 The proposed housing mix is as follows:

#### Market Units

- 25 x 2 bed dwellings (of which 5 would be bungalows)
- 21 x 3 bed dwellings
- 18 x 4 bed dwellings

#### Social

- 2 x 2 bed affordable houses
- 3 x 3 bed affordable houses

- 6.5 The scheme provides for a mix of dwelling sizes and types in line with the Council's adopted and emerging planning policies.

### Principle of Development

- 6.6 The principle of development has already been established through the grant of outline planning permission by the Planning Inspectorate on 5 February 2018.
- 6.7 The aforementioned appeal arose from the failure of the Council to determine the application within the statutory period, however in the Statement of Case submitted by the Council as part of the appeal it was confirmed that if the application had been determined it would have been refused for two reasons. The first reason would have related to the effect of the scale of the proposal on Elmstead Market and the Council's ability to manage growth through the plan-led approach and related to this the question of housing land supply in the District. The second reason for refusal would have related to the absence of a Planning Obligation to secure affordable housing, education and health contributions and the provision of open space.
- 6.8 The Planning Inspector concluded with respect to the first reason that:

*“Whilst I recognise that there is tension between the scale of development proposed and the Council’s strategy for development in Elmstead Market, there is no firm evidence that its scale or location would lead to tangible harm to local services or facilities. The appeal site is reasonably sustainably located with regard to access to these facilities and to public transport. The Framework’s aim of seeking plan-led growth should be considered alongside its support for housing growth. In this case I have found that the housing land supply position in the District, among other factors, indicates that only moderate weight can be accorded to the relevant development plan policy. Overall, therefore, I find that the proposal would result in very limited conflict with the development plan strategy for the location of residential development.”*

- 6.9 With respect to the second reason, relating to the absence of a S106 Planning Obligation, it was confirmed at the Appeal Hearing that this had been overcome with the submission of an Obligation which addressed affordable housing, education contributions and provision of open space.
- 6.10 The reserved matters under consideration as part of this detailed application are:
- Access;
  - Layout;
  - Scale;
  - Appearance; and
  - Landscape

#### Access

- 6.11 Whilst access was not approved at the outline stage, the illustrative layout drawing that accompanied that application indicated that there would be one central vehicular access into the site from School Road. The detailed scheme replicates that proposed arrangement and County Highways has raised no objections from a highway and transportation perspective.
- 6.12 The scheme includes a new pedestrian footpath link along the School Road frontage (but set behind the existing hedge boundary fronting the highway which will be retained and act as a soft edge to the street frontage) which would link with the existing footpath serving the school to the north and beyond into the wider settlement.
- 6.13 The existing Public Right of Way (PROW) which crossed the eastern end of the site in a north-south alignment will be retained. This provides the site with direct access to Clacton Road (A133) to the north and to the wider countryside to the south.
- 6.14 A new pedestrian link between the school and the proposed respite house will be created on the northern boundary of the site.

#### Layout

- 6.15 The relatively low density of development (at around 14 dwellings per hectare) would allow for a generous standard of road and footway width, ensuring that the internal road layout can safely and comfortably accommodate emergency services and waste collection services. All the houses and bungalows would benefit from a combination of garaging (either single or double) and/or surface parking, which in all instances would be compliant with parking standards.
- 6.16 Residential amenity for future residents would be acceptable having regard to privacy and avoidance of overshadowing, while garden sizes would be more than compliant with standards and indeed most will be well in excess of minimum standards, ranging from a minimum of 82sqm for a couple of the 2-bed terraced units up to in excess of 600sqm for some of the 4-bed detached houses.

- 6.17 In the opinion of officers, the layout has been carefully considered to reflect its urban edge setting. Key aspects of this include:
- Low density detached houses fronting onto School Road, set behind an existing native hedge belt to help retain the sylvan semi-rural nature of this road as a southern gateway into the village;
  - Low density detached housing backing onto the southern boundary which forms the new urban edge with open countryside to the south. New tree planting will be provided along the entire length of this boundary to further soften the transition between countryside and built development;
  - New public open space/green corridor along the northern boundary with 'Market Field School' and dwellings fronting Clacton Road, creating a good level of separation;
  - A highly articulated street layout which helps create a strong sense of place with key vista buildings and curved roads adding to the level of interest. Of particular note is the large oval green with central swale at the eastern end of the site, which acts as a cleverly designed end-stop to the development.

#### Scale and Appearance

- 6.18 The proposed height of dwellings throughout the site is predominantly two-storeys, with an element of 1½ storey almshouses and single storey bungalows. This scale of development is considered acceptable, particularly given the low density nature of the development, which allows for generous separation distances between plots which acts to break up the built form as viewed from its undeveloped surroundings. It should be noted that the proposed site density is just over 14 dwellings per hectare which taking into account the locality of the site on the edge of the village is considered acceptable.
- 6.19 In terms of appearance, the developer has sought to employ 12 different house types which help ensure that the scheme is visually diverse. The architecture is of a traditional vernacular with brick fascia walls, casement windows, stone string coursing, and a number of plots with chimney stacks. The almshouses include 'dutch' gable ends which will create interesting vistas at key nodal points within the new estate.
- 6.20 It is considered that the scheme as submitted will be acceptable in terms of scale and appearance and will be appropriate to its urban edge setting.

#### Landscaping

- 6.21 It is considered that the proposed scheme layout, particularly given its low density nature, provides for a strategic landscape approach which will facilitate the delivery of well thought out and usable open spaces which will establish a positive landscaping setting for the development whilst also aiding the transition from new built development to rural edge. However, specific detailed planting proposals are still required and accordingly this needs to be subject to condition.
- 6.22 In accordance with Planning Policy Guidance, conditions requiring such details can be imposed at Reserved Matters stage as they relate directly to a specific reserved matter. It is consequently recommended that conditions be imposed to secure an acceptable hard and soft landscaping scheme and to ensure its implementation and where necessary replacement within 5 years should planting not survive.

#### Other Matters

- 6.23 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as a site of international, national or local importance to nature conservation but the urban area of Elmstead Market does fall within the 'Zone of Influence' (Zol) of the Colne Estuary Special Protection Area (SPA) and Ramsar site. In the context of the Council's duty as 'competent authority' under the provisions of the Habitats Regulations, it is therefore anticipated that, without mitigation, new residential development in this location is *'likely to have a significant effect on one or more European designated sites through increased recreation pressure, either when considered 'alone' or 'in combination' with other plans or projects.'*
- 6.24 The Council has screened the proposed development and consider that it falls within the scope of the Essex Coast RAMS and as a result the Council has gone on to carry out a Habitats Regulations Assessment (HRA)(Stage 2 – Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation.
- 6.25 The mitigation described in the Appropriate Assessment is an off-site per dwelling tariff based financial contribution to mitigate direct recreational impacts at the European designated site. The financial contribution is to be secured through an appropriate and legally binding agreement.
- 6.26 In response to the Parish Council comments, the following observations are made:
- Swale location: the location of the swale is considered appropriate. It will essentially be a dry shallow depression within a wider oval green, which is designed to take surface water in only severe storm conditions. It will not be directly located adjacent to the PROW, with the new estate road bisecting these two features. The gardens to the plots immediately adjacent to the eastern boundary are substantial and at a minimum (plot 33) will be set back circa 20m from this common boundary, so there is no reasonable necessity to seek the relocation of the swale to this eastern extremity of the site.
  - Reduction of benefits for Market Field School: the applicant has confirmed that an area of land on the northern boundary of the site (adjacent to the respite unit) will be dedicated to the school for use for horticultural educational purposes i.e. allotments/poly-tunnel(s). A condition is recommended to ensure that this is delivered.
  - Covenant on home extensions: as reported above this is a low density scheme, with principally large detached plots with private amenity areas substantially above the Council's minimum standards. Furthermore, the Appeal Inspector in allowing the outline application did not consider it appropriate or necessary to remove permitted development rights from the site. This Reserved Matters application confirms the low density nature of the application and that removal of permitted development rights would not be justified in this instance.
  - Trust Housing: The S106 Obligation attached to the outline planning permission requires the provision of either a scheme to provide not less than 30% of the residential dwellings as Affordable Housing or the 'gifting' of 5 dwellings to the Council to be used solely as Social Rented Housing. The applicant has determined to pursue the 'gifted' unit option and the Council's Housing Enabling Officer has confirmed that these will be provided in the form of 2 x two-bed houses and 3 x three-bed houses (plots 36-40 inclusive).
  - Public Open Space: The S106 Obligation attached to the outline planning permission sets a requirement to provide an area of not less than 0.4989 hectares including the Play Area as 'Open Space Land'. The detailed application confirms that the scheme will deliver circa 0.5167 hectares as open space which exceeds this minimum requirement. In addition, it is worth noting that this calculation excludes the swale areas. As the swale area in the open space to the eastern end of the site will essentially be a dry feature (apart from in severe storm conditions), in reality this is also likely to be enjoyed as an area of informal recreation. Accordingly, the scheme is considered to deliver an appropriate level of on-site open space.

## 7. Conclusion

- 7.1 The application satisfies the requirements of the NPPF and the Development Plan for Tendring having regard to Access, Appearance, Landscaping, Layout and Scale and should be approved subject to the conditions as set out in this Report.

## 8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per dwelling

### 8.2 Conditions and Reasons

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan – 4177-0002 Rev P01  
Site Plan – 4177-0001 Rev P18  
House Type 1 – 4177-0101 Rev P05  
House Type 2 – 4177-0201 Rev P03  
House Type 3 – 4177-0301 Rev P03  
House Type 5 – 4177-0501 Rev P03  
House Type 7 – 4177-0701 Rev P04  
House Type 7A – 4177-0701A Rev P05  
House Type 8 – 4177-0801 Rev P04  
House Type 9 – 4177-0901 Rev P04  
House Type 10 – 4177-1101 Rev P02  
House Type 15 – 4177-1501 Rev P03  
House Type 16 – 4177-1601 Rev P03  
House Type 17 – 4177-1701 Rev P03  
House Type 24 – 4177-2901 Rev P01  
House Type 25A – 4177-3001 Rev P01  
House Types 10 & 11 (General Arrangement Plans & Elevations) – 4177-1001 Rev P04  
House Types 10, 11 & 19 (General Arrangement Plans & Elevations) – 4177-2501 Rev P02  
House Types 14 & 19 (General Arrangement Plans & Elevations) – 4177-2701 Rev P02  
House Types 14 & 19 (Reduced) (General Arrangement Plans & Elevations) – 4177-2801 Rev P02  
Garage Type 1 – Single Garage – 4177-1901 Rev P03  
Garage Type 2 – Double Garage – 4177-2001 Rev P03  
Cart Lodge – Triple – 3522-2101 Rev P03

Reason – For the avoidance of doubt and in the interests of proper planning.

2. No development shall commence until details of existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the agreed scheme prior to occupation.

Reason – To ensure a satisfactory form of development having particular regard to drainage and the provision of level access.

3. Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in accordance with drawing no. 4177-0001 Rev P18.

Reason – To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

4. Prior to the commencement of development, details of the estate roads and footpaths (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason – To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

5. Prior to the first occupation of the dwellings, details of cycle storage required to serve each dwelling shall be submitted to and approved in writing by the Local Planning Authority. All cycle storage so approved shall be provided prior to first occupation of the dwelling to which it relates and shall be retained thereafter as approved.

Reason – To ensure a satisfactory development in terms of appearance and functionality and sustainability, so that cycling is encouraged as a sustainable means of transport.

6. Notwithstanding the details shown on the submitted site plan , no development shall take place until:
  - a) There has been submitted to and approved in writing by the Local Planning Authority, a more detailed scheme of hard and soft landscaping works for the site, to include all areas of open space, all play areas, all amenity areas, all street trees, all verges and all other planted or open areas of the site. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication “BS 5837:2012 Trees in relation to design, demolition and construction. The development shall be carried out in accordance with the approved details.
  - b) Existing trees on the site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping (above), have been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Any trees dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with trees of appropriate size and species during the first planting season or in accordance with such other arrangement as may be agreed in writing with the Local Planning Authority.

Reason – To ensure a satisfactory standard of landscaping and the protection of retained trees.

7. A landscape implementation and management plan, including planting schedules and long term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved, in writing, by the Local Planning Authority prior to the first occupation of the development. The landscape implementation and management plan shall be carried out as approved in accordance with the details and timescales in the plan.

Reason – To ensure the timely implementation, management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

8. No street lighting or lighting of common area shall be installed until details of an illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason – In the interests of amenity to reduce the impact of night time illumination on the character of the area.

9. No development shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form.

Reason – To protect the amenities and privacy of occupiers of each plot and in the interests of wider visual amenities.

10. No development shall take place until precise details of the provision, siting, surface treatment of children's playspace together with details of the equipment to be provided and a timetable for the provision of the facility has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided in their entirety and be made available for use in accordance with the agreed timetable and thereafter retained for public use.

Reason – The need for playspace close to dwellings is essential to help meet the needs of the development.

11. No development shall take place until precise details of the provision of a parcel of land close to the northern boundary of the site, to be dedicated to the adjoining Market Field School for use for horticultural educational purposes (i.e. allotments/poly-tunnel(s)), to include a timetable for the provision of the agreed site, has been submitted to and approved in writing by the Local Planning Authority. The approved dedication of the agreed parcel of land to the school shall be in accordance with the agreed timetable and thereafter retained for such purposes.

Reason – To accord with details agreed as part of the planning application submission.

### 8.3 Informatives

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address these concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### Highways Informatives

**Informative 1:** All housing developments in Essex which would result in the creation of a new street more than five dwelling units communally served by a single all-purpose access) will be



subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.

**Informative 2:** Prior to occupation, the development shall be served by a system of operational street lighting of design approved from the Highway Authority along the Primary route, which shall thereafter be maintained in good repair.

**Informative 3:** The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

**Informative 4:** 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.

#### Other Informatives

Essex Police provide a free impartial service to any applicant who wishes to incorporate Crime Prevention through Environmental Design and apply for the police preferred 'Secured by Design' accreditation. The applicant is invited to contact Essex Police via [designingoutcrime@essex.pnn.police.uk](mailto:designingoutcrime@essex.pnn.police.uk)

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.

- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

#### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

### **10. Background Papers**

None