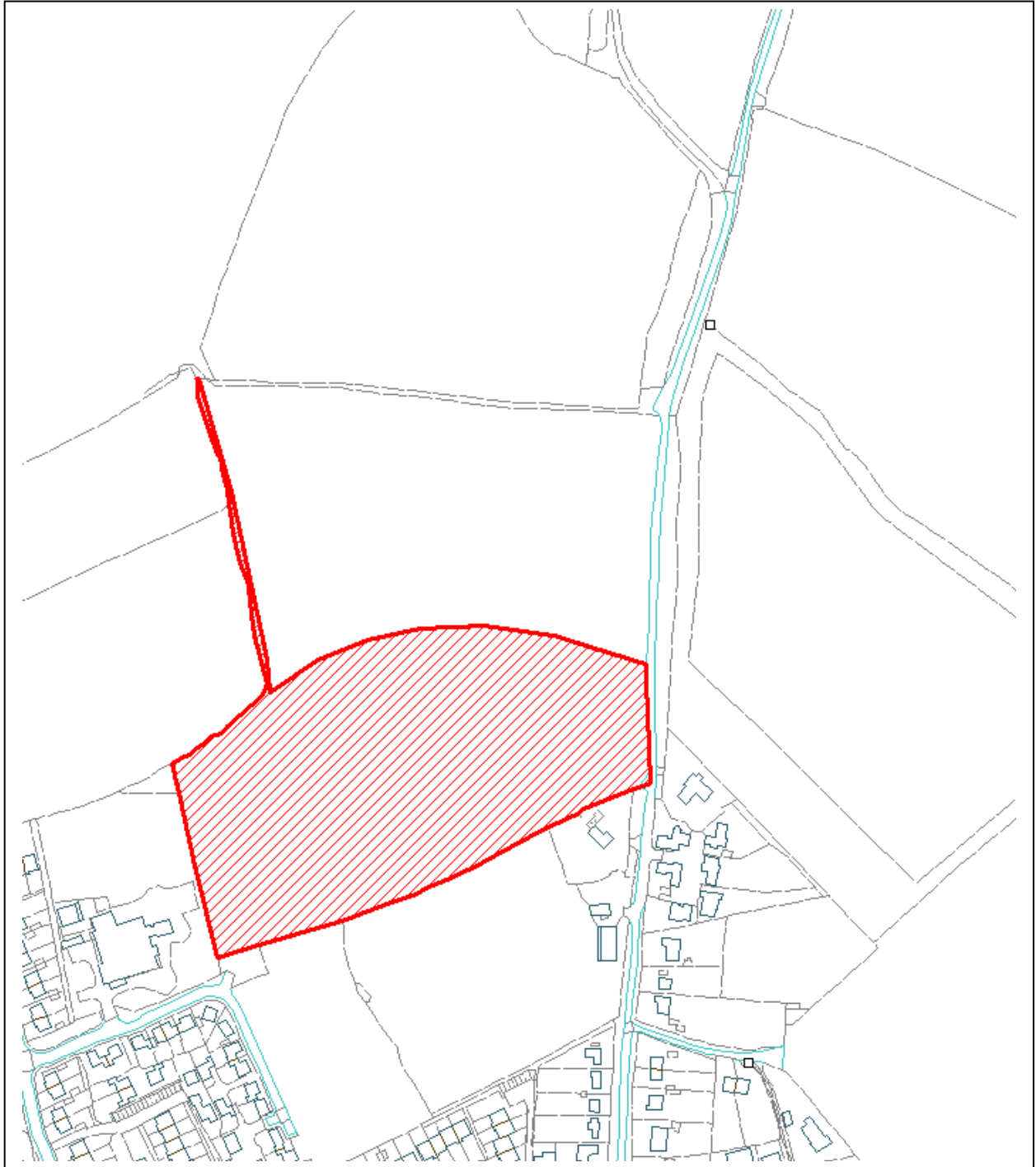


PLANNING COMMITTEE

14 January 2020

REPORT OF THE HEAD OF PLANNING

**A.2 PLANNING APPLICATION – 18/01884/FUL – LAND TO THE WEST OF CHURCH ROAD
ELMSTEAD CO7 7AW**



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Application: 18/01884/FUL

Town / Parish: Elmstead Market Parish Council

Applicant: Mr Newell - Newell Homes

Address: Land to The West of Church Road Elmstead CO7 7AW

Development: Erection of 41 no. residential dwellings, open space, allotments, parking, access and landscaping.

1. Executive Summary

- 1.1 This is an application for Full Planning permission, following the previous granting of 14/01292/OUT for 20 dwellings, a community hall, playing field and allotments. The proposal is for the erection of 41 dwellings, including the provision of 8 affordable homes together with means of access, parking, garaging, associated landscaping/allotments and public open space provision.
- 1.2 The site lies outside of the settlement development boundary for Elmstead Market within the adopted Local Plan, but in the emerging Local Plan it is specifically included within the defined settlement boundary. The emerging plan has now reached a relatively advanced stage of the plan-making process, and the Council relies on this to boost the supply of housing in line with government planning policy to demonstrate a five-year supply of deliverable housing land. As stated above the site benefitted from a previous planning permission for residential development including community facilities and this should carry considerable weight in the decision making process.
- 1.3 Following the approval of 14/01292/OUT on this site for 20 units, a community hall, playing field and allotments, a further housing development at Charity Field, Elmstead Market, was allowed on appeal which also made provision for a new community hall, allotments and public open space. Therefore, following the Charity Field approval the applicant approached the Parish Council to ascertain which location would be preferable for the new community hall and playing field. Consequently, the Parish Council formed a sub-committee which advised the applicant that the Charity Field site would be the preferred option and as a result the Charity Field applicant advised that it would be their intention to develop a new community hall as part of their development alongside an area of open space.
- 1.4 In view of the above it is the applicant's intention to include a financial contribution of £400,000 to assist in the delivery of a fully functioning community hall on the Charity Field site, whilst utilising the remaining land for the provision of additional housing.
- 1.5 The application is accompanied by a suite of technical drawings and documents supporting the proposal and overall it is considered that no significant adverse or cumulative effects on the local environment or population would be caused, with it being deemed to be compliant with legislation and planning policy.
- 1.6 Officers are content that subject to the imposition of reasonable planning conditions and S106 planning obligations that the general principle of this level of development on the site is acceptable. It is in keeping with both the site's location on the edge of the village along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features. Furthermore, the proposal would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts whilst significantly boosting housing supply within the district in line with the Council's own emerging Local Plan.

- 1.7 The recommendation is therefore to approve outline planning permission subject to the completion of a legal obligation under Section 106 of the Town and Country Planning Act 1990 and a number of controlling conditions.

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**
 - **Affordable Housing Provision 20% (8 units)**
 - **Education contribution - £172,307**
 - **Community Hall at Charity Field - £400,000**
 - **Open Space/Allotments – Transfer to management company or Elmstead Parish Council**
- 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

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

National Policy:

**The National Planning Policy Framework
National Planning Policy Guidance**

Local Plan Policy:

Tendring District Local Plan (2007)

- QL1 Spatial Strategy
- QL2 Promoting Transport Choice
- 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
- 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
 HG14 Side Isolation
 COM1 Access for All
 COM6 Provision of Recreational Open Space for New Residential Development
 COM24 Health Care Provision
 EN1 Landscape Character
 EN6 Biodiversity
 EN6A Protected Species
 EN6B Habitat Creation
 EN11A Protection of International Sites European Sites and RAMSAR Sites
 EN11B Protection of National Sites SSSI's, National Nature Reserves, Nature
 Conservation Review Sites, Geological Conservation Review Sites
 TR1A Development Affecting Highways
 TR2 Travel Plans
 TR3A Provision for Walking
 TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development
 SP2 Spatial Strategy for North Essex
 SP3 Meeting Housing Needs
 SP6 Place Shaping Principles
 SPL1 Managing Growth
 SPL2 Settlement Development Boundaries
 SPL3 Sustainable Design
 HP1 Improving Health and Wellbeing
 HP2 Community Facilities
 HP3 Green Infrastructure
 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
 PPL5 Water Conservation, Drainage and Sewerage
 CP1 Sustainable Transport and Accessibility
 CP2 Improving the Transport Network

Supplementary Planning Guidance:

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 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.

2.3 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.

2.4 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.

2.5 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

14/01292/OUT	Outline planning application (all matters reserved) for residential development, a community hall, green infrastructure open space including land for a sports field and allotments together with new vehicular and pedestrian accesses, parking, servicing, landscaping and utilities infrastructure.	Approved	12.12.2016
18/01884/FUL	Erection of 41 no. residential	Current	

dwellings, open space, allotments,
 parking, access and landscaping

4. Consultations

ECC Highways Dept

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

1. Prior to the first occupation of the development, the proposed road junction at its bell mouth junction with Church Road shall be constructed at right angles to the highway boundary and to the existing carriageway as previously approved and shown on, drawing no. J621/ 09 to a carriageway width of 5.5 metres with 2 metre width footways on both sides 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, in the interests of highway safety.

2. Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in accord with Drawing numbers:

- X571-PL-SK-002 Rev P02 - Internal Road Layout Swept Path Analysis.
- 17/28/03 Rev F - Proposed Site Plan

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

3. Prior to the commencement of development, details of the estate roads and footways (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.

4. Prior to first occupation of the site the provision of the following is required:

A footway as per CCE Drawing X571-PL-SK-003 Rev P04 (Proposed Site Access) associated drop kerbs and tactile paving to the specifications of the Highway Authority.

This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 278 of the Highways Act, 1980.

Reason: To make adequate provision within the highway for the additional pedestrian traffic generated within the highway as a result of the proposed development and to provide a link with the existing footway within Church Road.

5. All single garages should have a minimum internal measurement of length 7 metre x 3 metres and 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.

6. 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.

7. 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 free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

8. 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:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. 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 in the interests of highway safety.

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.

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 the commencement of any work on the site a joint inspection of the route to be used by construction vehicles should be carried out by the applicant and the Highway Authority, to include photographic evidence. The route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority. The Highway Authority may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access by vehicles servicing the application site.

The construction vehicle route to the site should be clearly signed and a strict regime of wheel washing and street cleaning should be in place.

Informative 3: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org or by post to:

SMO1 ' Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential

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

ECC SuDS Consultee

Having reviewed the Flood Risk Assessment, the associated documents, and the email from Cameron Gilmour (14/05/2019) which accompanied the planning application, we do not object to the granting of planning permission based on the following conditions:

Condition 1

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:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure. This testing should be located at all locations of proposed infiltration.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 100 year event plus 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.
- 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 should clearly show how surface water will be managed and discharged during construction. 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. If features are to be maintained by homeowners, they should be given clear instructions on

what needs doing, how it is to be done, and they can have maintenance done on their behalf by a maintenance company.

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.

Natural England

SUMMARY OF NATURAL ENGLAND'S ADVICE –

European designated sites

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

As you will be aware, 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 recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.). For further information on these sites, please see the Conservation Objectives and Information Sheets on Ramsar Wetlands which explain how each site should be restored and/or maintained

In the context of your 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 recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation, and note that you have recorded this decision within your planning documentation.

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS

We are satisfied that the mitigation described in your Appropriate Assessment is in line with our strategic-level advice (our ref: 244199, dated 16th August 2018 and summarised at Appendix 1). The mitigation should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these mitigation measures.

Housing Services

If we are looking at 8 affordable units, our preference would be 4 x 2 beds, 3 x 3 beds and 1 x 4 bed.

Anglian Water Services Ltd

Assets Affected

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

Wastewater Treatment

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

Used Water Network

Development will lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. The developer has advised that a pumped solution will be implemented as per drawing 1809-211-S1001 and FRA 3.3, however, no pump rate has been provided to conduct accurate assessment at this time. We therefore request a condition requiring phasing plan and/or on-site drainage strategy.

Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets and the developer is proposing SuDS techniques via infiltration as per FRA 4.0.

Suggested Planning Conditions

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

Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority.

Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

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

ECC Schools Service

From the information I have received, I have assessed the application on the basis of 41 houses. Assuming that all of these units are homes with two or more bedrooms, a development of this size can be expected to generate the need for up to 3.69 Early Years and Childcare (EY&C) places; 12.3 primary school, and 8.2 secondary school places.

Early Years and Childcare

The proposed development is located within the Thorrington, Frating, Elmstead and Great Bromley Ward. According to Essex County Council's childcare sufficiency data, published in Summer 2017, there are 8 providers of early years and childcare in the area. Overall a total 12 places unfilled places were recorded. Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high quality early years and childcare provision to meet local demand. As there are sufficient places available in the area, a developers' contribution towards new childcare places will not be required for this application

Primary Education

This proposed development is located within the priority admissions area of Elmstead Primary School set out in Essex County Council's document 'Commissioning School Places in Essex'. The School has a permanent capacity of 208 places. The school is now full. The number of pupils is forecast to rise by 29 by the academic year 2020/21. The demand generated by this development would be in addition to this demand. Looking at the wider area (Tendring Primary Planning Group 3) these forecasts suggest a need for an extra 125 places. Essex County Council's '10 Year Plan' to meet demand for school places, states that multiple school expansion projects are being considered at schools in the Group for September 2019 onwards. It is clear from the above information that additional primary school places will be needed. This development would add to that need and, thereby, the scope of projects to provide additional school places is directly related to the proposal. The contribution sought is based on the formula, established in the Essex County Council Developers' Guide to Infrastructure Contributions, which calculates sums based on the number and type of homes built. The contribution will thus be fairly and reasonably related in scale and kind to the development and, thereby, Community Infrastructure Levy regulation 122 compliant. A project to provide sufficient school capacity is, thereby, needed. The estimated cost of the project is £187,956 at April 2018 costs. This equates to £15,281 per place and so, based on demand generated by this proposal set out above, a developer contribution of £187,956, index linked to April 2018, is sought to mitigate its impact on local primary school provision.

Secondary Education

With regards to secondary education needs, this proposed development is located within the priority admissions area of Colne Community School this

development will increase need for places in this area however due to current pooling restrictions we will not be in a position to request a contribution.

Having reviewed the proximity of the site to the nearest secondary schools, Essex County Council will be seeking a school transport contribution of £71,022. The developer should ensure that safe direct walking and cycling routes to local schools are available also.

In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on childcare, education and school transport. Our standard formula s106 agreement clauses that ensure the contribution would be fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

Essex County Council
Archaeology

A programme of archaeological evaluation has been carried out on the above site in response to a condition on a previous application 14/01292/FUL. The evaluation revealed sparse archaeological remains and a report was submitted and approved. There is no requirement for any further archaeological investigation and no recommendations for the above application.

5. Representations

- 5.1 Elmstead Parish Council would like to return a neutral comment for the above application.

The reason for our neutral comment is due to the fact the Parish Council agrees with certain parts and disagrees with other areas. We would highlight the following comments:

Elmstead Parish Council supports section 5.6 of the amended planning statement dated November, which includes a £400,000 financial contribution to the Charity Field Community Centre project. We would like Tendring District Council to ring-fence this contribution to the development on Charity Field, Elmstead, reference 18/01863/DETAIL.

Elmstead Parish Council supports section 5.7 of the amended planning statement dated November, which includes 0.18 ha of allotment land to be gifted to the village of Elmstead. We understand that this allotment land will be fully prepared by the developer for the use of allotments, not just given as a piece of land. We also understand that parking will be supplied for the allotment users.

Elmstead Parish Council does not support section 5.10 of the amended planning statement dated November. The Parish Council has never agreed to remove the sports ground and the previously agreed £90,000 assigned to this project. As we have previously stated to the developer, our village project of utilising this sports field with the adjoining cricket club, was to create a sports community area, sharing the current changing rooms and catering facilities within the cricket club. The removal of the community centre from this project does not affect this village sports community project and we would request this is still included as part of the planning application. The original application was approved on a Tilted Balance agreement, stating all facilities will be supplied as part of the agreed approval, we request that is strongly defended on this new application. The village has limited playing area for the youth and adult community of Elmstead and removal of this facility will have a

detrimental effect on our parishioners. During school hours the community has nowhere to go, as the playing field we lease for the benefit of the parishioners is used solely by Market Field School, highlighting the need for additional playing areas. All parties agreed to this development and approval was gained due to the Tilted Balance element, removal of this would not have gained previous planning approval.

Elmstead Parish Council supports the many comments posted by the public on the planning application portal, about the safety of additional houses adjacent to the cricket club. The original design of 20 dwellings had the sports field as a buffer between the dwellings and the cricket club. Currently this field is constantly receiving cricket balls that are hit over the boundary during games held all week at the cricket club. With the new design of dwellings being close to the edge of the cricket club boundary, we have concern for the safety of both dwellings and the people that live in them. If approval is gained for the additional houses, we would like the developer to supply and pay for an agreed safety fencing to be supplied along the boundary of their development to the cricket club. We request consultation of the agreed specification of this fencing, as this is a specialist fencing that needs to be at a higher than normal specification to stop cricket balls being hit into this area.

Elmstead Parish Council does not support the addition of 21 dwellings to the Church Road development. The original application was passed on 20 dwellings, we now have a new application increasing this to 41 dwellings. Our original concerns for the traffic issues leading to this development when only 20 dwellings were agreed are once again a key concern. Church Road is a busy village street and not designed to accommodate larger developments such as the 41 dwellings now planned. The junction joining Church Road with Colchester Road is major concern to us, especially as two other developments on School Road (62 dwellings and 50 dwellings) that join this junction, will add further traffic to the crossroads. We strongly request that Highways review this crossroad and the Church Road future traffic issues.

Elmstead Parish Council has concerns on the new design being an over-development of the size of land. 41 dwellings on such a small area offers an over-populated area of land for new home owners with limited open-space to support.

Elmstead Parish Council acknowledges that Essex Education department have highlighted a deficiency in places available at our local primary school from 2020. We wish to highlight that the additional 21 dwellings planned, will further stretch the local resources resulting in increased traffic to allow the residents to attend other schools in the County.

Elmstead Parish Council has read the Assessment of Economic Viability that has been submitted. We recognise that the Parish Council would need to take independent specialist advice to review this report to make any comments. The deadline for our comments doesn't allow us to gain such advice and we are keen to read the comments Tendring District Council have on this assessment. However, we would like to point out that the development was purchased, fully understanding the cost of the land and the S106 arrangements for, a Community Hall or donation of £400,000, the £90,000 for the sports field and the allotments contribution at the time of the purchase. It seems that the land was bought with no intention of providing these agreed provisions and justification has now been sought for increasing the dwellings and taking away the sports field.

5.2 20 letters of objection have been received outlining the following objections;

- No footpath along this section of Church Road creating safety issues for pedestrians.
- Church Road/Colchester Road junction is unsafe.
- Local school/health care over-subscribed.
- Safety risks at boundary with the Cricket Club from stray balls.
- Large increase in traffic along Church Road.

- Removal of community facilities at expense of the village.
- Extra houses are not needed.

6. **Assessment**

Site Context

- 6.1 The application site is broadly rectangular in shape and is undeveloped agricultural land situated to the west of Church Road. The site is part of a single agricultural field with an existing field access on to Church Road. The site measures approximately 260 metres by 150 metres, and equates to approx. 3.24 hectares.
- 6.2 The site's southern and western boundaries are bordered in part by a mature hedgerow. Part of the southern boundary is formed by a brick wall which contains the curtilage of The Vicarage, with the remainder formed by several mature trees which are afforded protection. The northern boundary of the site is open forming part of the wider agricultural field beyond. The eastern boundary of the site is open to views from Church Road.
- 6.3 Church Road itself is 30 mph, and is a local link road off the Colchester/Clacton Road crossroad junction. Church Road serves predominantly detached, mostly two-storey dwellings and bungalows along its length.
- 6.4 A relatively recent development called Church Gardens which contains 6 two-storey dwellings is located off Church Road to the east of the application site (06/00760/FUL refers). Also to the east of the site is a bungalow named 55 Fritton. The Vicarage, a 2-storey dwelling is located to the south-east of the site adjoining the southern boundary.
- 6.5 Church Road also provides access to Holly Way. Beyond the application site to the north, Church Road serves a handful of other properties together with the St Anne and St Lawrence Parish Church.
- 6.6 To the south the site borders Elmstead Cricket Ground and adjoining grassed amenity area. To the west the site borders Elmstead Primary School and its associated playing field. Also located adjacent to the south-west boundary of the site is a car park, which it is understood is controlled by the Parish Council.
- 6.7 The site itself has no noticeable topographical features and has an approx. gradual 400mm fall across the land from east to west. There is a public footpath approx. 120 metres to the north of the application site which runs west to east.
- 6.8 The application site lies outside of the defined settlement development boundary of Elmstead Market as set out in the Tendring District Local Plan (2007), but within the defined settlement boundary in the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Proposal

- 6.9 The application proposes 41 no. residential units, allotments, a single access/egress onto Church Road, footpath connections to the north and to the school (west), a new public footpath along Church Road leading south, public open space and landscaped areas. The housing is provided in a mix of units and types from 2 bed to 4 bed, the actual mix is as follows:
 - 2 no. x 2 bed bungalows
 - 6 no. x 2 bed semi-detached
 - 4 no. x 3 bed semi-detached

- 13 no. x 3 bed detached houses
- 16 no. x 4 bed detached house

6.10 With the site extending to 3.24 ha, the density of the scheme is 13 dwellings per hectare (dph).

Principle of Development

6.11 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a significant material consideration in this regard.

6.12 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 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.

6.13 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.

6.14 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.

6.15 The application site is not allocated for development in the adopted Local Plan and it lies outside (albeit adjacent to) the 'settlement development boundary' for Elmstead Market. In the emerging Local Plan it is however included within the settlement development boundary. In applying the guidance within paragraph 48 of the NPPF, the Local Plan has reached a relatively advanced stage of the plan-making process and Officers are of the view that the proposal is in line with the policies in the NPPF to boost the supply of housing and achieve a balance between economic, social and environmental factors. On this assessment, the allocation of the site for development can carry a reasonable level of weight in the determination of this planning application.

6.16 Furthermore, the Council's relies on some of the sites allocated for development in the emerging Local Plan obtaining planning permission in the short-term, in order for them to start delivering new homes from the middle part of the plan period. In addition, the site benefits from a previous outline planning permission (14/01292/OUT) for the erection of up to 20 dwellings and therefore it is considered that the principle of residential development on this site is acceptable.

Design/Layout

- 6.17 Paragraph 124 of the NPPF states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.
- 6.18 The proposed development has increased to 41 properties since the original scheme for was 20 dwellings was approved, however at an average net density of 13 dwellings per hectare (dph) and with private rear gardens meeting or exceeding the standards set out within the Essex Design Guide it would not give rise to an over-development of the site. Furthermore due to the minimum building to building distance of over 25m between the proposed development and the nearest existing property, it is considered that the scheme would not over-dominate its built context. The development also provides open space comprising of 16% of the total site area which exceeds the 10% threshold required by the relevant local plan policy.
- 6.19 With a mixed character of property type and style in the vicinity, and with the design of the proposal taking some cues from the Essex Design Guide, Officers consider that the scheme would respond positively to local character, provide buildings that exhibit individual architectural quality and house-types with well-defined public and private spaces. The use of varied materials including facing brick, weatherboarding, smooth render, slate and plain tiles along with brickwork detailing and a range of differing window styles assists in providing the development with a sense of identity.
- 6.20 The public realm through additional landscaping, street furniture and other distinctive features would also assist in creating a sense of place, and provide streets and spaces that are overlooked and active, promoting natural surveillance and inclusive access, as well as including parking facilities that are well integrated as part of the overall design.
- 6.21 Overall it is considered that the scale, layout, density, height and massing of buildings and overall elevation design would harmonise with the character and appearance of the surrounding area.

Landscape Impact/Trees

- 6.22 The site is currently in agricultural use and has no trees or other vegetation in the main body of the land. There are a number of trees and established hedgerows situated on, or close to, the site boundaries. These are adjacent to the primary school to the west, the public open space to the south and the Cricket Ground also to the south.
- 6.23 The trees on the boundary with the Cricket Ground are protected by Tendring District Council Tree Preservation Order TPO/92/14 Cricket Ground, Church Road, Elmstead Market.
- 6.24 In order to show the potential impact of the development proposal on the protected trees and other trees on or adjacent to site boundaries the applicant has submitted a Tree Survey and Report. The report has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction: Recommendations.
- 6.25 With regard to the above the Council's Landscape and Tree Officer was consulted. The Officer commented that it has been demonstrated that the development proposal could be developed without harm being caused to the protected trees on the boundary with the

cricket ground. A condition securing an Arboricultural Method Statement and Tree Protection Plan to show how the retained trees will be physically protected for the construction phase of any development will be secured through condition.

- 6.26 In terms of soft landscaping the proposed site plan ref. 17/28/03 Rev F shows indicative soft landscaping proposals. The indicative layout drawing provides for a landscaped buffer zone to the open northern boundary, and it would be essential that this boundary is provided with a structural landscape scheme to aid the transition from development into countryside.
- 6.27 As such the enhancement of the public realm and planting on the northern boundary to provide a soft edge to the development will be key elements of the soft landscaping of the site.
- 6.28 As a result, it is considered the proposals would not have a significant adverse impact on the character and appearance of the area, or any protected trees.

Highway Safety/Parking

- 6.29 Where concerning the promotion of sustainable transport, the NPPF in para. 103 states that the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
- 6.30 Paragraph 102 of the NPPF requires Councils, when making decisions should ensure:
- a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.31 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The application site is within walking distance of the convenience store, the primary school and bus stops with services to and from Clacton, Colchester and beyond. The installation of a new pedestrian footpath running from the application site southwards along Church Road in conjunction with a new footpath/cycle link to Elmcroft to the west will assist in improving pedestrian accessibility to local services/facilities. As such for a rural location, the site offers a reasonable level of accessibility which is reflected in Elmstead Market's categorisation as a Rural Service Centre in the emerging Local Plan.
- 6.32 Policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP1 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.
- 6.33 It is acknowledged that some local residents have objected to the proposal with concerns about the development's impact on Church Road, general road safety and road capacities in the village. Essex County Council, in its capacity as the Local Highways Authority, has considered the proposal and concluded that it would be acceptable from a highways perspective subject to a number of conditions, the subject of which as highlighted within the summary of their response are included at the head of this report.

- 6.34 The Council's adopted parking standards state that a minimum of 1 space per dwelling should be provided for 1 bedroom dwellings and a minimum of 2 spaces per dwelling should be provided for 2 and more bedroom dwellings. Also 0.25 space per dwelling is required for visitor parking. Parking spaces should measure 5.5 metres by 2.9 metres and garages (to be counted towards parking provision) should measure 7 metres by 3 metres. The proposed development has been laid out in a manner that adheres to these standards and pays regard to the need to plan for sustainable access for all.
- 6.35 The transport impacts of the development are not considered to be severe and, from this perspective, refusal of planning permission on such grounds would not be justified, particularly bearing in mind the presence of the previous planning permission for up to 20 dwellings and associated community facilities. Therefore it is considered that the proposal, during either the construction or operational phases would not have a detrimental effect upon the highway network or the general accessibility of the surrounding area with sustainable mitigation measures proposed and to be secured by the appropriate means.

Biodiversity

- 6.36 An Ecological Survey Report has been submitted with the application. The report concludes the following;
- There are not considered to be any significant adverse impacts on existing habitat and botanical interest if the site is developed.
 - The risk of Great Crested Newts being present on site is considered low as there are no records for the site or immediate area with no ponds located close to the site.
 - The risk of amphibians being killed or injured during any construction work is considered low but standard best practice site clearance methods should be used to minimise this.
 - Bats will use the boundary habitats and areas of trees for foraging and commuting. If the hedgerows and trees are unaffected by any development, then there is not considered to be any significant impact on this group. Two short sections of hedgerow will require removal to create an access to the proposed allotments from the school and a pedestrian access to the site. As common farmland species such as pipistrelles will readily fly across gaps in hedgerows and across open ground, no significant impacts will occur due to their loss. Use of lighting on buildings needs to be positioned to avoid illumination of retained habitats such as boundary hedgerows or trees.
 - As two short sections of existing hedgerow require removal to create accesses to the allotments from the school and a pedestrian access to the proposed new village hall from Elmcroft, vegetation clearance should ideally be undertaken outside of the nesting season (March to August inclusive).
 - The predicted adverse impacts of the development on biodiversity are considered to be low.
- 6.37 Conversely there are a range of enhancements that could be incorporated into the design of the scheme that could deliver significant biodiversity benefits including the installation of bat/bird boxes, implementation of a native species soft landscaping scheme and the use of compost heaps within the proposed allotments.
- 6.38 Furthermore, to maximise the ecological value of new landscaping, plants should be native, and wildflower meadows should be provided in areas of public open space. In addition, it is considered that an ecological management scheme and mitigation plan is sought and secured by condition, to ensure the proposed development follows appropriate impact avoidance precautionary measures, such as minimising the use of external lighting, and any scrub and tree removal is undertaken outside the bird nesting season.

- 6.39 Legal advice has been sought to confirm that Tendring District Council should now seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment (HRA) has been carried out to confirm that the mitigation will be the RAMS 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 Site (Colne Estuary SPA and Ramsar).
- 6.40 Therefore, in conclusion on this issue, it is considered that the proposal would not give rise to significant adverse effects upon ecology and nature conservation subject to the mitigation measures proposed which could be secured through the imposition of appropriate conditions.

Impact on Residential Amenity

- 6.41 Paragraph 117 of the NPPF states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 6.42 With regard to privacy, the Essex Design Guide (EDG) states that "with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel, and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable". It goes on to state that "where new development backs on to the rear of existing housings, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses may not encroach any closer than 15 metres to an existing rear boundary, even though with a closer encroachment 25 metres between the backs of houses would still be achieved".
- 6.43 The distances between the new dwellings and the nearest garden boundaries of existing dwellings meets these standards. Therefore, the proposals would ensure that the living conditions of existing and future residents would be protected from overlooking, a loss of outlook and daylight/sunlight.
- 6.44 Furthermore, the submission indicates how landscaping would be retained and enhanced within the application site, so as to further mitigate the effects of the development. Additionally a number of objections from local residents have been received in respect of the health and safety risks associated with being sited in close proximity to the existing cricket club to the south of the site. In response to this the applicant has confirmed that they are willing to erect safety netting on the inside of the southern boundary of the site, details of which are secured via condition.
- 6.45 Officers consider that the detailed layout has been designed in a manner which achieves an appropriate relationship with the existing dwellings whilst being sympathetic to the character of the surrounding area and the wider landscape. All in all it is considered that the above measures would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts.

Drainage

- 6.46 Part 14 of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. Inappropriate development in areas at risk of flooding should be avoided.

- 6.47 The site is currently greenfield land and is located within Flood Zone 1, it is therefore at low risk from tidal/fluvial flooding. Construction would also be managed and controlled to ensure no contamination of groundwater is caused during the construction phase.
- 6.48 Anglian Water state that the foul drainage from this development is in the catchment of Thorrington Water Recycling Centre that will have available capacity for these flows. However, as it stands the development would lead to an unacceptable risk of flooding downstream, therefore a drainage strategy would need to be prepared in consultation with them to determine mitigation measures. They request that a condition requiring the drainage strategy covering the issue is imposed.
- 6.49 In relation to surface water disposal, the discharge of future surface water runoff from the site will not be increased because of the redevelopment as it will be controlled as a result by attenuating and slowing the rate at which it infiltrates the ground with permeable paving, cellular soakaways and an infiltration basin. Essex County Council SUDs Team has reviewed the submitted information and have no objections subject to the conditions contained within their comments which are outlined at section 8.2 of this report.

Section 106 of the Town and Country Planning Act 1990 and Viability Matters

- 6.50 The 2016 permission proposed up to 20 dwellings, a community hall, open space, including land for a sports field and allotments. The community hall, open space and allotments were all bound within a s106 Agreement to be delivered within the eventual development. In the case of the Community Hall a budget was set within the Agreement of £400,000.
- 6.51 The s106 Agreement did not make provision for affordable housing to be provided, unless the community hall was not provided, or the development did not commence on the site within 3 years. In those circumstances, the developer was obliged to pay £400,000 towards affordable housing provision, in lieu of the community hall and if no development commenced within 3 years, a viability assessment was required to determine the precise level of affordable housing contribution required.
- 6.52 Following the 2016 approval a further housing development at Charity Field, Elmstead Market was allowed on appeal which also made provision for a new community hall, allotments and public open space. Therefore, following the Charity Field approval the applicant approached the Parish Council to ascertain which location would be preferable for the new community hall. Consequently, the Parish Council formed a sub-committee which advised the applicant that the Charity Field site would be the preferred option and as a result the Charity Field applicant advised that it would be their intention to develop a new community hall as part of their development alongside an area of open space.
- 6.53 In view of the above it is the applicant's intention to include a financial contribution of £400,000 to assist in the delivery of a fully functioning community hall on the Charity Field site. Provision is also made on site for 0.18ha of allotments which in a settlement that does not have any at the current time is to be supported.
- 6.54 In view of the applicant's commitment to contribute £400,000 towards the new community hall a viability assessment has been provided to demonstrate that the development cannot achieve the full 30% affordable housing provision along with the full quota of s106 contributions towards education and open space improvements.
- 6.55 The applicant's viability assessment has been carefully considered by the Council's consultants (VOA) who have provided the following conclusions;

I am of the opinion that the proposed scheme with financial s106 contributions of £572,307 shows an RLV of £569,498. This is lower than my adopted BLV and therefore indicates that

a scheme on this basis would not be financially viable unless cost savings were made and/or profit expectations were lowered.

In these circumstances I have carried out some sensitivity analysis to establish the amount of on-site affordable housing that I consider would be financially viable on site. I conclude that the provision of 20% (8 units) on-site affordable housing is financially viable.

- 6.56 Consequently, the VOA conclude that the development can achieve a slightly reduced affordable housing provision of 20% (8 units) as opposed to 30% (12 units) alongside a figure of £572,307 towards the requested financial contributions. This is based on a blended profit margin of 15.48%.
- 6.57 Officers have reviewed the information and, on the basis of the conclusions of the VOA the following contributions are included as part of the Officer recommendation;
- 20% affordable housing (8 units)
 - Education contribution of £172,307
 - Community Hall contribution of £400,000
 - RAMS figure of £122.30p per dwelling.
- 6.58 Having regarded the significant sum being provided towards the new community hall, Officers are content that the contributions listed above strike an appropriate balance towards local infrastructure improvements and on-site affordable housing provision.
- 6.59 The requirement for an open space contribution has been re-directed towards the new community hall project. This is considered to be acceptable given that the site provides open space at a policy compliant standard in conjunction with new allotment pitches.

7. Conclusion

- 7.1 The proposal for 41 properties is considered to represent sustainable development, on the edge of a Rural Service Centre, and on a site previously benefiting from planning permission for residential development.
- 7.2 Subject to completion of the S106 legal agreement to secure local infrastructure improvements and the provision of affordable housing the application is recommended for approval.

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
Affordable Housing Provision	8 dwellings (20%)
Education contribution	£172,307
Financial contribution towards RAMS.	£122.30p per dwelling
Proposed Community Hall	£400,000

8.2 Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country

Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. No above ground works shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - The development is publicly visible and therefore sympathetic materials are a visually essential requirement.

3. No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which 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."

Reason - In the interest of visual amenity and the character of the area.

4. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - In the interest of visual amenity and the character of the area.

5. No above ground works shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and agreed in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the first occupation of the approved dwelling and shall be retained thereafter in the approved form.

Reason - In the interests of visual and residential amenity.

6. Prior to the first occupation of the development, the proposed road junction at its bell mouth junction with Church Road shall be constructed at right angles to the highway boundary and to the existing carriageway as previously approved and shown on, drawing no. J62 1/ 09 to a carriageway width of 5.5 metres with 2 metre width footways on both sides 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, in the interests of highway safety.

7. Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in accord with Drawing numbers:

- X571-PL-SK-002 Rev P02 - Internal Road Layout Swept Path Analysis.
- 17/28/03 Rev F - Proposed Site Plan

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

8. Prior to the commencement of development, details of the estate roads and footways (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.

9. Prior to first occupation of the site the provision of the following is required:

A footway as per CCE Drawing X571-PL-SK-003 Rev P04 (Proposed Site Access) associated drop kerbs and tactile paving to the specifications of the Highway Authority.

Reason - To make adequate provision within the highway for the additional pedestrian traffic generated within the highway as a result of the proposed development and to provide a link with the existing footway within Church Road.

10. 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 free of charge.

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport.

11. No phase of development shall commence until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority for that particular phase. The statement shall include:

- i) the parking of vehicles of site operatives and visitors;
- ii) the loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) details of noise, dust, emission and lighting control measures;
- v) wheel and under-body washing facilities; and
- vi) hours of construction.

The development shall be carried out in accordance with the statement so approved.

Reason - To ensure that the development takes place in a satisfactory manner with regard to its impact on amenity and highways in the local area.

12. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Extended Phase 1 Ecological Assessment and Phase 2 Surveys (Phillips Ecology, October 2019), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.”

Reason - To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

13. Prior to any works above slab level being commenced a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.”

Reason - To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

14. Prior to first occupation a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason - To allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

15. 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:
- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure. This testing should be located at all locations of proposed infiltration.
 - Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
 - Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 100 year event plus 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.
 - 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.

16. 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 should clearly show how surface water will be managed and discharged during construction. 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.

17. 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. If features are to be maintained by homeowners, they should be given clear instructions on what needs doing, how it is to be done, and they can have maintenance done on their behalf by a maintenance company.

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.

18. 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.

19. Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority.

Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

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

20. Prior to the commencement of the development details of the safety netting to be providing along the southern boundary of the site shall be submitted to and approved, in writing, by the Local Planning Authority. The approved safety netting shall be erected prior to the first occupation of the development and retained as approved thereafter.

Reason – In the interests of health and safety due to the presence of a cricket pitch to the south of the site.

21. Each dwelling with on-plot garage parking shall be provided with a vehicle charging point. The charging point shall be provided prior to occupation of each such dwelling.

Reason - To enhance the sustainability of the proposed development.

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

- 17/28/13/B
- 17/28/03/F
- X571-PL-SK-002 P01
- X571-PL-SK-002 P02
- 17/28/06
- 17/28/07
- 17/28/08
- 17/28/09
- 17/28/10
- 17/28/11
- 17/28/04

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

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highway Informative

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.

Prior to the commencement of any work on the site a joint inspection of the route to be used by construction vehicles should be carried out by the applicant and the Highway Authority, to include photographic evidence. The route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard

and at no cost to the Highway Authority. The Highway Authority may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access by vehicles servicing the application site.

The construction vehicle route to the site should be clearly signed and a strict regime of wheel washing and street cleaning should be in place.

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org or by post to:

SMO1 ' Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

S106 Informative

The applicant is reminded that this permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 1990.

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.