

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	25 th Sept 2020
Planning Development Manager authorisation:	SCE	25.09.2020
Admin checks / despatch completed	CC	28/09/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CD	28/09/2020

Application: 20/00974/OUT **Town / Parish:** Elmstead Market Parish Council

Applicant: Mr F Bennett

Address: Land adjacent Saresta Bromley Road Elmstead

Development: Proposed erection of 1 bungalow.

1. Town / Parish Council

Elmstead Parish Council Elmstead Parish Council has no objections in principle to this application, but the lack of drawings and detail has made it difficult to make a comment. It is not known how big the building is intended to be or where it is to be located on the site.

Elmstead Parish Council would like to record that if the planning application is permitted we would like to be consulted on the reserved matters.

2. Consultation Responses

ECC Highways Dept No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated March 2019. It is noted that the existing vehicle access is to be retained and is situated just within the existing 30-mph speed limit, while the site appears to have a site boundary approximately 14 metres in width and adequate space for off street parking.

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

UU Open Spaces
02.09.2020 There is currently a deficit of 4.51 hectares of equipped play/formal open space in Elmstead Market.

No contribution is being requested from open spaces on this occasion.

Building Control and
Access Officer Nothing to comment on at this time.

Tree & Landscape Officer
19.08.2020

The application site is has been cleared and is currently bare earth.

There are two small Hawthorns on the eastern boundary of the application site and a young Oak on adjacent land close to the western boundary of the application site.

Neither of the hawthorn makes such a contribution to the public realm that they merit protection by means of a tree preservation order although it would be desirable if they were to be retained for their own sake. The Oak is a more prominent feature in the public realm although it does not have a well formed crown and is somewhat one-sided. It is not directly threatened by the development proposal and it is consequently not considered necessary or expedient to make the tree the subject of a new tree preservation order.

Should planning permission be likely to be granted then details of soft landscaping should be secured as a reserved matter to soften and enhance the appearance of the development.

3. Planning History

14/00414/OUT	Proposed single residential dwelling, installation of temporary accommodation as a static caravan and installation of a standard kiosk to receive electrical supply.	Approved
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20/00974/OUT	Proposed erection of 1 bungalow.	Current
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4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG9 Private Amenity Space

LP1 Housing Supply

TR1A Development Affecting Highways

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

PPL4 Biodiversity and Geodiversity

Local Planning Guidance

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, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.

The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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 (which applies until such time that the figures in the new Local Plan are adopted).

In addition, the actual need for housing (as set out in the emerging Local Plan) 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, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector's endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

5. Officer Appraisal

Site Description

The site measures approximately 0.1 hectares and is situated on the southern side of Bromley Road, and forms one of several properties in a ribbon development. The existing use of the site is for amenity purposes and is currently occupied by a mobile home and attached lean-to. The site is flanked with hedgerow along the western side and is opposite undeveloped amenity land. The existing access will remain in use for the proposed development. Saresta, located to the west, is a residential care home. There is no built form to the east.

Relevant History

Although the site itself has no relevant planning history, planning permission was granted in July 2020 for the erection of one dwelling adjacent-but-one to the site (reference: 20/00081/FUL). Further, four detached bungalows were approved for a site located further to the east (reference: 20/00475/FUL).

Description of Proposal

Outline planning permission is sought for the construction of a detached bungalow dwelling with associated off-street parking. The plot is approximately 25m in width and 30m in length. At this stage no consideration has been given to the scale and form of the proposed dwelling, although neighbouring properties are largely bungalow style dwellings and a similar format can be expected.

Assessment

The main planning considerations are:

- Principle of Development

The application site is located outside the settlement development boundary of Elmstead in the saved Tendring District Local Plan (2007) but within in the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). Policy HG3 of the Adopted Tendring Local Plan 2007 and Policy SPL2 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft states that there is a general presumption in favour of new development within defined development boundaries of towns and villages, subject to detailed consideration against other relevant Local Plan policies. The inclusion of the site within the SDB of the emerging plan represents a significant material planning consideration and demonstrates that it is the Council's intention going forward to release this land for residential purposes. Consequently the principle of residential development on the site is considered acceptable and sustainable.

- Layout, Scale and Appearance;

The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.

In the immediate locale properties exist on the south side of the road only; to the west of the site the Care Home has the greatest set-back from the road (at around 30m) – this set-back diminishes gradually moving westwards. As this is an outline application with all matters reserved, details regarding the siting of the proposed dwelling are set aside for consideration under a subsequent application. In order to maintain the existing form of development the dwelling should be set back from the road edge by no less than 25m. Properties are a pleasant mix of single-storey and chalet bungalows with forward-facing dormers; a dwelling of either scale would respect the established scale of the streetscene. Externally properties are a mix of brick, brick and render or render. A dwelling finished in any combination of these materials would respect the established palette in the area.

- Neighbouring Amenities;

The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Different dwelling sizes and types provide accommodation for individuals and families with a wide range of expectations and need for private amenity space. "Private amenity space" comprises a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas. It will therefore not necessarily always amount to the entire rear garden. Apart from its private recreation function, private amenity space is also important in achieving well laid out development.

Private amenity space shall be provided to new dwellings in accordance with the following standards:- a three or more bedroom house - a minimum of 100 square metres; two bedroom house - a minimum of 75 square metres; one bedroom house - a minimum of 50 square metres. In accordance with the policy requiring the area to not be overlooked by adjacent or opposite living rooms or outdoor sitting areas, there is ample space within the plot for sufficient private amenity space if the proposed dwelling were to have three-bedrooms or more. Subject to a design which limits the risk of direct overlooking towards Saresta and a scale no greater than a chalet bungalow, it is likely that a dwelling on this plot will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

Overall the proposal is considered to secure a good standard of amenity for future occupants of the proposed dwelling.

- Highway Considerations;

Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The Council's current Parking Standards require that for dwellings with 3 bedrooms a minimum of 2 parking spaces be provided per unit. The preferred bay size for cars is 5.5 metres by 2.9 metres and the minimum bay size is 5 metres by 2.5 metres.

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

- Trees & Landscaping

The application site is has been cleared and is currently bare earth.

There are two small Hawthorns on the eastern boundary of the application site and a young Oak on adjacent land close to the western boundary of the application site.

Neither of the hawthorn makes such a contribution to the public realm that they merit protection by means of a tree preservation order although it would be desirable if they were to be retained for their own sake. The Oak is a more prominent feature in the public realm although it does not have a well formed crown and is somewhat one-sided. It is not directly threatened by the development proposal and it is consequently not considered necessary or expedient to make the tree the subject of a new tree preservation order.

Should planning permission be likely to be granted then details of soft landscaping should be secured as a reserved matter to soften and enhance the appearance of the development.

- Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. The contribution is secured by unilateral undertaking.

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 4,212 metres from Essex Estuaries. Since the development is for 1 dwelling only, the number of additional recreational visitors would be limited and the likely effects on Essex Estuaries from the proposed development alone may not be significant. However, new housing development within the Zol would be likely to increase the number of recreational visitors

to Essex Estuaries; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

- Public Open Space

Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built". These sentiments are carried forward within emerging Policy HP5.

In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that no contribution is being requested from Open Spaces on this occasion.

- Representations

Elmstead Parish Council has no objections in principle to this application, but the lack of drawings and detail has made it difficult to make a comment. It is not known how big the building is intended to be or where it is to be located on the site.	Noted as this is an Outline application with all matters reserved the details are not submitted until the Reserved Matters stage.
Elmstead Parish Council would like to record that if the planning application is permitted we would like to be consulted on the reserved matters.	Noted.

Conclusion

For the reasons set out above, the proposal is considered to represent a sustainable form of development in a location supported by national and local plan policy that will not result in any material environmental or residential harm that warrants refusal of planning permission.

6. Recommendation

Approval – Outline

7. Conditions / Reasons for Approval

- 1 The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 3 No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the access, appearance, landscaping and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plan: un-numbered 1:1250 ordnance survey extract; received 22nd July 2020.

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

- 5 Prior to occupation of the development, the road junction / access at its centre line shall be provided with a clear to ground visibility splay of 2.4m x 105m to the east and 2.4m x 110m to the west as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason - To ensure adequate inter-visibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

- 6 Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

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

- 7 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

- 8 The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, sealed. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

- 9 The proposed development shall not be occupied until such time as a domestic car parking for a minimum of two vehicles has been provided in accordance with the Parking Standards, details to be agreed with the Local Planning Authority. The agreed car parking shall be retained at all times for such purpose.

Reason - To ensure that on street parking of vehicles in the adjoining streets/roads does not occur and that appropriate parking is provided.

- 10 Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason - To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity.

- 11 No development shall take place, including any ground works or works of demolition, until a Construction Management Plan (CMP) 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 under body washing facilities

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 12 Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason - To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway, in the interests of highway safety.

8. 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.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

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

Are there any letters to be sent to applicant / agent with the decision?		NO
Are there any third parties to be informed of the decision?		NO