

DELEGATED DECISION OFFICER REPORT

| AUTHORISATION | INITIALS | DATE |
|---|----------|------------|
| File completed and officer recommendation: | AN/SCE | 08.09.2021 |
| Planning Development Manager authorisation: | TF | 08/09/2021 |
| Admin checks / despatch completed | DB | 09.09.2021 |
| Technician Final Checks/ Scanned / LC Notified / UU Emails: | ER | 09/09/2021 |

Application: 20/01571/FUL **Town / Parish:** Elmstead Market Parish Council

Applicant: Mr Steve Williams - Hills Residential Construction Ltd

Address: Land to The East of Tye Road Elmstead

Development: 24 dwellings and associated parking and infrastructure (Variation to recently approved application 19/01179/DETAIL).

1. Town / Parish Council

None received

2. Consultation Responses

ECC SuDS Consultee
16.07.2021

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission subject to the imposition of the following conditions:

Condition 1

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to 2l/s for all storm events up to and including the 1 in 100 year plus 40% allowance for climate change storm event
- 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 all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- 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 Simple Index Approach in chapter 26 of 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 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

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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

Reason

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

Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly

maintained and may increase flood risk or pollution hazard from the site.

Condition 4

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

Reason

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

We also have the following advisory comments:

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below.

<https://www.essex.gov.uk/protecting-environment>

Any questions raised within this response should be directed to the applicant and the response should be provided to the LLFA for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. Please see Appendix 1 at the end of this letter with more information on the flood risk responsibilities for your council.

INFORMATIVES:

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of

the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.

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

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

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

- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

ECC Highways Dept
12.01.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority. 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 April 2019. It is noted that this application is a variation to recently approved application 19/01179/DETAIL and access has been approved previously under Tendring District Council reference 17/00927/DETAIL and so is not part of this application.

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

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan 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 and Policy DM 1.

2. 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 in accordance with policy DM1.
3. No unbound material shall be used in the surface treatment of the vehicular accesses throughout.
Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.
4. Prior to occupation of the development the vehicular accesses shall be constructed at right angles to the highway boundary and to the carriageway. The width of the access at its junction with the highway shall not be more than 3.6 metres (equivalent to 4 low kerbs) or 7.2 metres if they are adjoining vehicle accesses (equivalent to 4 low kerbs in front of each property), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.
Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.
5. There shall be no discharge of surface water onto the Highway.
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.
6. Prior to 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 roads/footways are constructed to an appropriate standard in the interests of highway safety in accordance with Policy DM7.
7. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.
Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.
8. Each new property shall be provided with 2 parking spaces and each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres or each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.
Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.
9. Any single garages should have a minimum internal measurement of 7m x 3m
Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

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

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

11. 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 in accordance with policies DM9 and DM10.

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.

2: The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is a breach of this legislation. The public's rights and ease of passage over public footpath no.7 (Elmstead Market) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

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 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

4: 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.

TDC UU Open Spaces

No comments received

TDC Tree & Landscape
Officer
03.12.2020

In terms of the impact of the amended layout of the development proposal on the preserved trees on the boundary of the application site it is clear, from the amended site plan provided, that the dwellings are not situated within the Root Protection Areas (RPA's) of the protected trees.

Therefore the proposed changes will not adversely affect any of the trees on the boundary of the application site that are afforded formal legal protection by a Tendring District Council Tree Preservation Order.

TDC Building Control and
Access Officer
21.12.2020

No adverse comments at this time.

Anglian Water Services
Ltd

No comments received

ECC Schools Service

No comments received

TDC Environmental
Protection
30.11.2020

Contaminated Land: Given the historic use of the proposal site, the Environmental Protection Team are requesting that prior to the commencement of the development proposals, investigations shall be carried out to establish whether the site is contaminated in any way. Such investigations shall be carried out in accordance with a scheme which shall first be agreed in writing with the Local Planning Authority. If the investigations reveal contamination of the site, a further scheme shall be agreed in writing by the Local Planning Authority, setting out measures to ensure that the entire area of the site, in relation to soil conditions resulting from such contamination, will not be harmful or detrimental to human health, animal health, normal plant health or growth, to buildings, building surfaces or amenities. Such agreed measures shall be implemented and completed to the satisfaction of the Local Planning Authority prior to the commencement of any development of the site.

Reason: to protect the health of nearby residents, site workers and end users

Construction Method Statement: In order to minimise potential nuisance to nearby existing residents caused by construction and any demolition works, Environmental Protection ask that the following is submitted:

Prior to the commencement of any construction or demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, Environmental Protection. This should at minimum include the following where applicable.

o Noise Control

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

o Emission Control

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site.
- 3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

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

Lighting: Any external lighting on the proposed development shall demonstrate compliance with the Institute of Lighting Professionals code of practice. (www.theilp.org.uk)

Housing Services

No comments received

3. Planning History

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|--------------|--|------------------------------|------------|
| 16/00219/OUT | Outline planning application for residential development of up to 32 dwellings, land for a community facility and associated parking and | Refused Allowed at appeal | 27.07.2016 |
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| | infrastructure. | | |
| 16/01950/OUT | Outline planning application for residential development of up to 32 dwellings and associated open space, car parking and infrastructure. | Withdrawn | 26.04.2017 |
| 17/00927/DETAIL | Reserved matters application for construction of new access to serve housing development approved under 16/00219/OUT. | Approved | 12.03.2018 |
| 18/00512/OUT | Outline planning application for residential development of up to 18 dwellings and associated open space, car parking and infrastructure. | Refused | 04.07.2018 |
| 18/00681/DETAIL | Reserved matters application for construction of new access to serve housing development approved under 16/00219/OUT (amendment to application 17/00927/DETAIL). | Refused | 31.07.2018 |
| 18/01307/DETAIL | Reserved matters application for 32 dwellings, land for a community facility and associated parking and infrastructure. | Approved | 02.08.2019 |
| 19/01012/NMA | Non-material amendment to application 18/01307/DETAIL - Alterations to road layout and re-ordering of house types to suit revised site layout. | Approved | |
| 19/01179/DETAIL | Reserved matters application for the variation of the site layout as approved in 18/01307/DETAIL. | Approved | 06.12.2019 |
| 20/00153/FUL | Proposed amendment to north east and south east corners of 19/01179/DETAIL by removing plots 11, 25 and 26 to introduce 11 new homes. Net increase of 8 and 2 which are affordable homes. | Refused | 22.04.2020 |
| 20/00332/DISCON | Discharge of conditions 6 (ecology), 7 (Construction Method Statement), 8 (Drainage), 9 (Drainage), 10 (Geoenvironmental assessment) and 11 (Geoenvironmental assessment) for application 16/00219/OUT allowed at appeal APP/P1560/W/16/3160793. | Approved | 07.07.2020 |
| 20/00534/FUL | Detailed application for residential development of 11 dwellings and | Approved | 07.08.2020 |

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| | associated car parking and infrastructure (this represents a net increase of 8 dwellings further to the approved plans under reference 19/01179/DETAIL) | | |
| 20/01336/FUL | Variation of condition 2 to vary the house types and site layout to layouts/details previously approved under application 20/00534/FUL. | Approved | |
| 20/01571/FUL | 24 dwellings and associated parking and infrastructure (Variation to recently approved application 19/01179/DETAIL). | Current | |
| 20/01628/FUL | Variation of condition 2 (Approved Plans) of planning application 20/00534/FUL to alter house types, change plot sizes and positions and amend the road layout and turning head. | Approved | 04.06.2021 |
| 20/01797/FUL | Full planning application for residential development of 15 dwellings, land for open space and associated car parking and infrastructure. | Current | |
| 21/01063/DISCON | Discharge of conditions 4 (External Works, Drainage Strategy, Levels), and 12 (Compound Area) of approved application 20/01628/FUL | Current | |
| 19/01012/NMA | Non-material amendment to application 18/01307/DETAIL - Alterations to road layout and re-ordering of house types to suit revised site layout. | Approved | |
| 19/01179/DETAIL | Reserved matters application for the variation of the site layout as approved in 18/01307/DETAIL. | Approved | 06.12.2019 |
| 20/00153/FUL | Proposed amendment to north east and south east corners of 19/01179/DETAIL by removing plots 11, 25 and 26 to introduce 11 new homes. Net increase of 8 and 2 which are affordable homes. | Refused | 22.04.2020 |
| 20/00332/DISCON | Discharge of conditions 6 (ecology), 7 (Construction Method Statement), 8 (Drainage), 9 (Drainage), 10 (Geoenvironmental assessment) and 11 (Geoenvironmental assessment) for application 16/00219/OUT allowed at appeal | Approved | 07.07.2020 |

APP/P1560/W/16/3160793.

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| 20/00534/FUL | Detailed application for residential development of 11 dwellings and associated car parking and infrastructure (this represents a net increase of 8 dwellings further to the approved plans under reference 19/01179/DETAIL) | Approved | 07.08.2020 |
| 20/01336/FUL | Variation of condition 2 to vary the house types and site layout to layouts/details previously approved under application 20/00534/FUL. | Approved | |
| 20/01571/FUL | 24 dwellings and associated parking and infrastructure (Variation to recently approved application 19/01179/DETAIL). | Current | |
| 20/01628/FUL | Variation of condition 2 (Approved Plans) of planning application 20/00534/FUL to alter house types, change plot sizes and positions and amend the road layout and turning head. | Approved | 04.06.2021 |
| 20/01797/FUL | Full planning application for residential development of 15 dwellings, land for open space and associated car parking and infrastructure. | Current | |

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Tendring Local Plan 2013-2033

Relevant Section 1 Policies (adopted)

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP4 Meeting Housing Needs

SP7 Place Shaping Principles

Adopted Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

HG4 Affordable Housing in New Developments

HG9 Private Amenity Space

COM6 Provision of Recreational Open Space for New Residential Development

COM26 Contributions to Education Provision

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN6B Habitat Creation

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN13 Sustainable Drainage Systems

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Relevant Section 2 Policies (emerging)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory

Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.

Paragraph 48 of the Framework 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 the policies of the Framework. In this regard 'Proposed Modifications' to emerging Section 2 of the 2013-33 Local Plan which contains more specific policies and proposals for Tendring has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council is holding a six week public consultation on the Main Modifications and associated documents, which began on 16th July 2021. The consultation will run for just over 6 weeks, closing at 5pm on 31st August 2021, following which adoption is expected later this year. Section 2 will join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

In relation to housing supply:

The Framework requires Councils 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, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, the 'tilted balance' at paragraph 11 d) ii) of the Framework is engaged. This requires applications for housing development be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Following the adoption of Section 1 of the 2013-33 Local Plan and the Council's 'Objectively Assessed housing Need' of 550 dwellings per annum there is no housing shortfall. The Council is able to report a comfortable surplus of housing land supply over the 5 year requirement. The 'titled balance' at paragraph 11 d) ii) of the Framework does not therefore apply to applications for housing.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The site is situated to the east of Tye Road and the western edge of Elmstead. It was an arable field and is bounded by a continuous mixed native hedgerow with individual mature trees.

Construction has commenced on site.

To the north of the site is a detached residential property and rough grassed land. To the east of the site is a development site to the north of Meadow Close which was subject to a planning permission for 20 bungalows.

The approved access and associated footpaths have been constructed.

Planning History/Proposal

The principle of development on the site for 32 dwellings has been established by the granting of outline consent at appeal (Planning Reference - 16/00219/OUT). Detail applications securing the access, landscaping, scale, appearance and layout details have also been agreed under applications 17/00927/DETAIL, 18/01307/DETAIL and 19/01179/DETAIL and permission achieved for an additional 8 dwellings under 20/00534/FUL, and varied by 20/01628/FUL.

There is also a pending application 20/01797/FUL for: Full planning application for residential development of 15 dwellings, land for open space and associated car parking and infrastructure on the land to the north.

This application seeks full planning permission to effectively vary the details approved by 19/01179/DETAIL. The changes comprise:

- Plot 4 - Addition of extra parking space and garage location as well as amended plot shape
- Plot 6 and 7 - Addition of extra parking space and amended garage location
- Plot 8 - House Type aligned to garage and addition of extra parking space and amended garage location
- Plot 9 and 10 - House Type layout flipped and addition of extra parking space and amended garage location
- Plot 13 and 14 - House Type change to HT24 and amended plot layout
- Plot 15 - House Type change to HT24A
- Plot 16 and 17 - House Type change to HT 25
- Plot 18 and 19 - House Type change to HT 24 and amended plot orientation
- Plot 20 and 21 - House Type change to HT 25 and amended plot orientation
- Plot 22 - House Type changed to HT3 and amended plot orientation
- Plot 23 - Remains as HT5 but plot orientation amended
- Plot 25 - House Type changed to HT5 and amended plot orientation
- Plot 35 (Formally Plot 27) - Addition of extra parking space and amended garage location. Plot size reduced
- Plot 36 (Formally Plot 28) - Western boundary amended
- Plot 37 (Formally Plot 29) - Amended garden size
- Plot 38 (Formally Plot 30) - Amended car park space positions
- Plot 40 (Formally Plot 32) - Amended garden access

Assessment

The principle of development has been accepted, under this application we are considering the minor changes to approved dwellings as listed above. The site already has an extant permission for these dwellings as a strong fall back position.

The change to alternative approved house types raises no concerns and there remains a good mix of properties on the development. The application will provide 16 x 2 bedroom dwellings, 7 x 3 bedroom dwellings and 1 x 4 bedroom dwelling. Two of the two bedroom dwellings will be gifted affordable housing units (plots 18 to 19), as agreed.

The provision of extra parking also raises no objection, providing a third off street parking space to the properties listed above. The visual impact of the additional hardstanding is minor.

The changes to the approved siting of the dwellings are minor and raise no concerns in terms of loss of light, outlook or privacy to existing or proposed occupiers.

Each of the proposed dwellings has their own private amenity space. Policy HG9 of the Saved Local Plan requires 75sqm of private amenity space for 2-bed dwellings and 100sqm of private amenity space for dwellings with 3 or more bedrooms. All dwellings are provided with garden areas which in many cases exceed this standard.

Protected trees

The dwellings are not situated within the Root Protection Areas (RPAs) of the protected Oak trees. Therefore, the proposed changes will not adversely affect any of the trees on the boundary of the application site that are afforded formal legal protection by a Tree Preservation Order TPO/16/04.

Legal Obligations

Legal agreements have been secured for the various applications on this site. A new legal agreement has been completed for this fresh application which will replace the existing agreements once the new permission is implemented.

The legal agreement secures:

- A financial contribution of £12,218.00 towards Primary Education as per the outline permission.
- The provision of 25% on site affordable housing as per the outline permission, or the option to gift two dwellings to the Council (as shown on the plans).
- The laying out of the open space in accordance with details agreed by the Council and transfer to a Management Company to be maintained in accordance with agreed details, as per the outline permission.
- RAMS contribution (as per the reserved matters).

The legal agreement secured at outline stage also secured the construction of an estate road (including footways) to an adoptable standard from Tye Road to the eastern boundary of the site. These works have already been completed.

A Habitat Regulations Assessment has been undertaken as this residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, being approximately 4.6km from the Colne Estuary Ramsar and SPA and 8.7km from the Stour Estuary Ramsar. The HRA confirms a proportionate financial contribution will be secured in line with the Essex Coast RAMS requirements to ensure that this proposal will not have an adverse effect on the integrity of the above European sites from recreational disturbance, when considered 'in combination' with other development. This contribution is secured under the legal agreement as detailed above.

Other Considerations

ECC-Highways have no objections to the alterations to the layout as the main point of access remains as previously approved. They recommend the imposition of 11 conditions.

ECC SUDS issued multiple holding objections, additional information was submitted and this was removed subject to 4 conditions.

No further letters of representation have been received.

The conditions imposed on 19/01179/DETAIL relate only to approved plans, highways, and landscaping. As a detail application that development was also subject to the 12 conditions imposed on 16/00219/OUT which was allowed at appeal. The current application is a fresh FULL application so will stand alone and not be subject to any of those previous conditions, and must be assessed against current planning policy and consultee advice as reflected in the conditions imposed on this new permission.

The appeal decision for 16/00219/OUT included: condition 6 ecology, condition 7 construction method statement, condition 8 surface water drainage, condition 9 foul water drainage, and conditions 10 and 11 contamination. 20/00332/DISCON discharged these conditions on 7th July 2020. The detailed assessments confirmed no remediation is required for contamination so these conditions do not need to be reimposed. Due to the altered layout the information submitted for conditions 6 ecology, condition 7 construction method statement, condition 8 surface water drainage, and condition 9 foul water drainage needs updating so these conditions have been reimposed. The CMS condition is combined to cover both the highways and environmental concerns.

6. Recommendation

Approval - Full

7. Conditions / Reasons for Refusal

- 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 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Site Location Plan (ref: 4115-0010-P02)

Site Layout Plan (ref: 4115-0004-P01)

HT1 GA Plans Elevations (ref: 4115/0101/P02)

HT2 GA Plans Elevations (ref: 4115/0201/P01)

HT3 GA Plans Elevations (ref: 4115/0301/P02)

HT5 GA Plans Elevations (ref: 4115/0501/P02)

HT7 GA Plans Elevations (ref: 4115/0701/P01)

GT1 Single Garage Plans Elevations (ref: 4115/2101/P03)

GT2 Double Garage Plans Elevations (ref: 4115/2201/P03)

HT24A GA Plans Elevations (ref: 4115/2401A/P02)

HT24 GA Plans Elevations (ref: 4115/2401/P04)

HT25 GA Plans Elevations (ref: 4115/2501/P03)

Tree Survey Schedule JBA 15-317

Arboricultural Impact Assessment JBA 15/317 AR01

Tree Constraints Plan JBA 15-317 TPO1REV A

SUDS information document reference 619838-MLM-ZZ-XX-RP-C-0005 dated 19 March 2021 by MLM Group.

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

- 3 No works except demolition 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:

- o Limiting discharge rates to 2l/s for all storm events up to and including the 1 in 100 year plus 40% allowance for climate change storm event

- o 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.

- o Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.

- o Final modelling and calculations for all areas of the drainage system.

- o The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.

- o Detailed engineering drawings of each component of the drainage scheme.

- o A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.

- o 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.

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

Reason

The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

- 5 Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

- 6 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.

- 7 No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan 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
 - v. Hours of construction
 - vi. A strategy for dust suppression
 - vii. The means of recycling materials

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; and in the interests of residential amenity.

- 8 Prior to occupation of the development a vehicular turning facility, of a design to be previously 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

- 9 No unbound material shall be used in the surface treatment of the vehicular accesses throughout.

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

- 10 Prior to occupation of the development the vehicular accesses shall be constructed at right angles to the highway boundary and to the carriageway. The width of the access at its junction with the highway shall not be more than 3.6 metres (equivalent to 4 low kerbs) or 7.2 metres if they are adjoining vehicle accesses (equivalent to 4 low kerbs in front of each property), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

- 11 There shall be no discharge of surface water onto the highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

- 12 Prior to commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to occupation.

Reason: To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety.

- 13 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

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

- 14 Prior to occupation each new property shall be provided with off street parking and/or garaging as shown on the approved plans.

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

- 15 Prior to occupation of the proposed development, 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.

- 16 No development hereby permitted shall take place until an Ecological Mitigation Scheme, including timescales, has been submitted to, and approved in writing by, the local planning authority. The scheme shall be constructed and completed in accordance with the approved Ecological Mitigation Scheme and in accordance with the agreed timescale.

Reason - In the interests of preserving and enhancing biodiversity and flora and fauna on the development site.

- 17 Prior to commencement of any above ground works a foul water drainage strategy shall have been submitted to and approved in writing by the local planning authority. No dwellings shall be occupied until the works have been carried out in accordance with the approved strategy.

Reason - To ensure adequate foul drainage is provided to the new properties in the interests of amenity and protecting the local environment.

- 18 Prior to commencement of any above ground works, details of the external facing and roofing materials to be used in the development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason - In the interests of visual amenity.

- 19 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 - This is a publicly visible site where an appropriate landscaping scheme is a visually essential requirement.

- 20 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 - To ensure the adequate maintenance of the approved landscaping scheme for a period of five years in the interests of the character of the surrounding area.

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.

SUDS informatives:

- o Strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link: <https://www.essex.gov.uk/protecting-environment>
- o Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- o Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- o Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- o It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- o The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- o We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

Highways informatives:

- 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.
- 2: The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is a breach of this legislation. The public's rights and ease of passage over public footpath no.7 (Elmstead Market) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.
- 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 - Development Management Team, Ardleigh Depot, Harwich Road, Ardleigh, Colchester, CO7 7LT
- 4: 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.

Legal Agreement Informative

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: Affordable housing, public open space, education, and mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

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| Are there any letters to be sent to applicant / agent with the decision? If so please specify: | | NO |
| Are there any third parties to be informed of the decision? If so, please specify: | | NO |