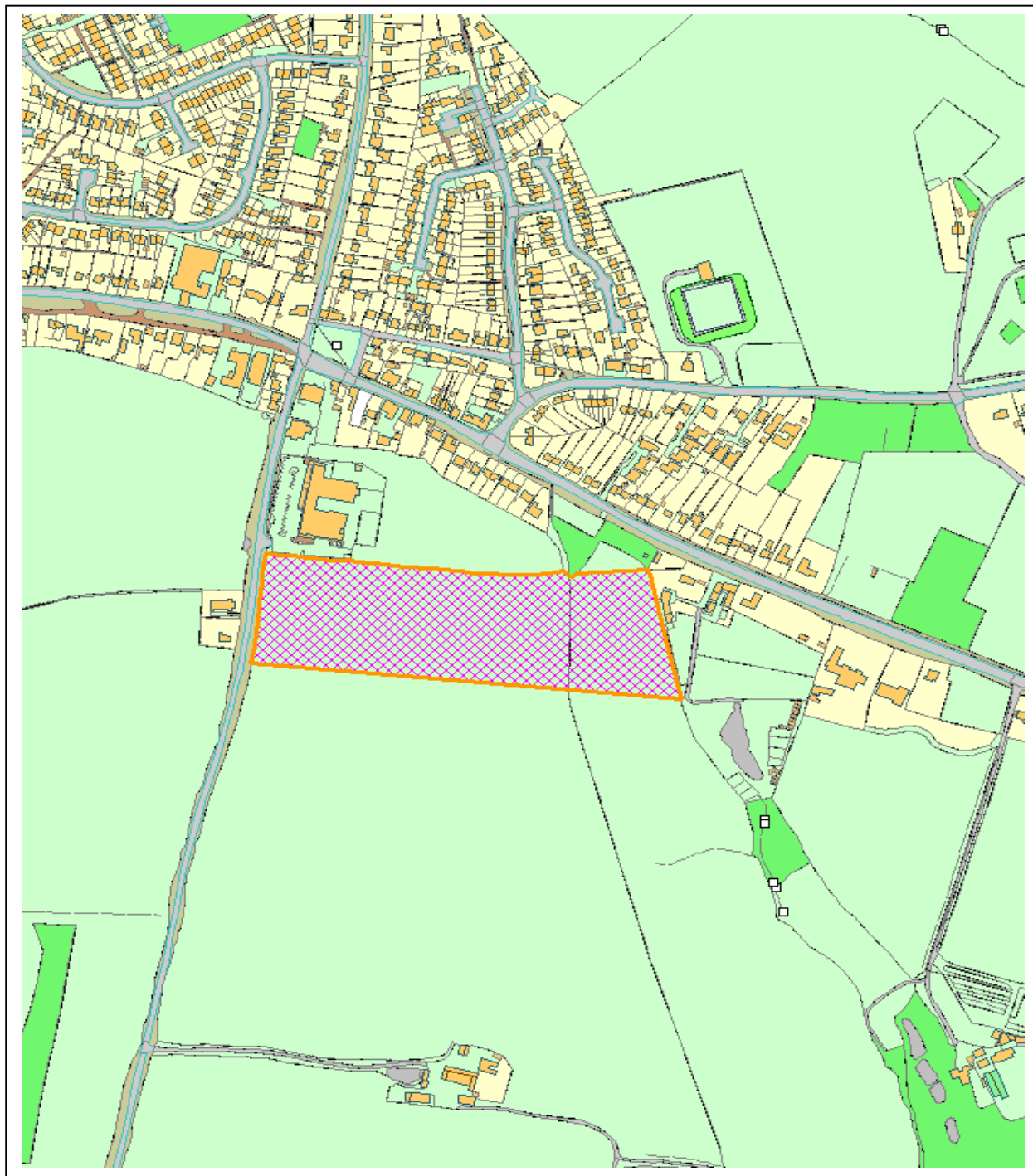


PLANNING COMMITTEE

29 MARCH 2017

REPORT OF THE HEAD OF PLANNING

**A.6 PLANNING APPLICATION - 16/01797/OUT - LAND ADJACENT MARKET FIELD SCHOOL, SCHOOL ROAD, ELMSTEAD, CO7 7ET**



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<b>Application:</b>	16/01797/OUT	<b>Town / Parish:</b> Elmstead Market Parish Council
<b>Applicant:</b>	Mr J Hills	
<b>Address:</b>	Land adjacent Market Field School School Road Elmstead	
<b>Development:</b>	Outline application for the erection of 62 dwellings, associated garaging, parking and infrastructure.	

## 1. **Executive Summary**

- 1.1 The is an outline planning application seeking approval for the principle of developing 62 dwellings, with all other matters reserved for approval through a detailed application at a later date. The site is 4.37 hectares of open agricultural land located to the south of the main village and immediately south of Market Field School. The application has attracted a mix of support and objection from local residents although Elmstead Market Parish Council object to the application. Councillor Nicholls has specifically requested that the application be determined by the Committee.
- 1.2 The applicant for the application has however referred the matter to Appeal against non-determination of the application and therefore the Council can no longer determine the application. This report sets down why officers consider that the application would have been recommended for refusal and members are invited to endorse this recommendation as the basis for defending the forthcoming appeal.
- 1.3 In recent months a number of similar greenfield sites, outside the Development Boundary and other sites have been permitted providing a significant number of extant planning permissions for new residential development either permitted by the Council or from the Secretary State following an appeal.
- 1.4 Elmstead Market is defined as a 'village' in the adopted Local Plan and as a 'rural service centre' in the emerging Local Plan and whilst some growth will be accommodated, the levels of development that have been approved are already well above what was ever envisaged to be appropriate and proportionate for such a rural location. Although Elmstead Market is considered to be one of the district's larger and more sustainable villages, this is not a justification for supporting or allowing unlimited growth.
- 1.5 The technical reports provided by the applicants along with the comments from statutory agencies suggest that there are no site-specific technical reasons why the proposed development could not proceed. However Officers are conscious that the cumulative impacts of this development alongside others already approved in the village are of great concern to the Parish Council and some local residents. Even though mitigation measures could be put in place to reduce impacts to a technically acceptable level, the effect of many new developments in the village on its character, including those resulting from additional traffic and permanent loss of agricultural land would be adverse and, in line with the NPPF, these need to be weighed up against the benefits of development.
- 1.6 Unlike the situation for much of 2016, the urgency to release land for housing development contrary to the Local Plan is now much reduced now that the new Local Plan is progressing well and the Council is very close to being able to identify a full five-year supply of deliverable housing sites. Following the Rush Green Road appeal decision in February 2017, Officers consider that the Council is in a stronger position to uphold the 'plan-led'

approach to planning and to resist unnecessary and unwanted development proposals that are contrary to the Local Plan.

**Recommendation: Refuse**

The development is considered unacceptable for the following (summarised) reasons:

- The site lies outside the settlement development boundary for Elmstead Market as defined in both the adopted and emerging Local Plans. The Council is very close to being able to identify a five-year supply of deliverable housing sites and the new Local Plan is progressing well, so the urgency to approve housing developments contrary to the Local Plan is low. The NPPF advocates a plan-led approach that actively seeks to achieve sustainable patterns of growth, but this development would add to what is already considered to be a disproportionate level of new housing development in Elmstead Market. In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal, both on the character of Elmstead Market and on the Council's ability to manage growth through the plan-led approach, are not outweighed by the benefits. The development is unnecessary and there is no support from the local community or any overriding public benefits that might warrant the proposal being considered in an exceptional light.
- No s106 agreement to secure affordable housing, education contributions, health contributions and open space has been completed.

**2. Planning Policy**

**National Policy:**

**NPPF National Planning Policy Framework (2012)**

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF does not change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
  - an economic role;
  - a social role, and;
  - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It 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 a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

- 2.5 Paragraph 187 of the NPPF states "Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area".

#### **Local Plan Policy:**

- 2.6 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the 'development plan' unless material considerations indicate otherwise. In the case of Tendring the development plan consist of the following:

**Tendring District Local Plan (Adopted November 2007)** – as 'saved' through a Direction from the Secretary of State. Relevant policies include:

QL1: Spatial Strategy: Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries.

QL2: Promoting Transport Choice: Requires developments to be located and designed to avoid reliance on the use of the private car.

QL3: Minimising and Managing Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

QL9: Design of New Development: Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs: Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts: Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

QL12: Planning Obligations: States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

HG1: Housing Provision: Sets out the strategy for delivering new homes to meet the need up to 2011 (which is now out of date and needs replacing through the new Local Plan).

HG3: Residential Development Within Defined Settlements: Supports appropriate residential developments within the settlement development boundaries of the district's towns and villages.

HG3a: Mixed Communities: Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

HG4: Affordable Housing in New Developments: Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type: Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities: Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that have long since been superseded by the NPPF.

HG9: Private Amenity Space: Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

COM2: Community Safety: Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM6: Provision of Recreational Open Space for New Residential Developments: Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.

COM21: Light Pollution: Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM23: General Pollution: States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM26: Contributions to Education Provision: Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, toward the provision of additional school places.

COM29: Utilities: Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal: Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character: Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

EN4: Protection of the Best and Most Versatile Agricultural Land: Seeks to ensure that where agricultural land is needed for development, poorer quality land is used as priority over higher quality land.

EN6: Biodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species: Ensures protected species including badgers are not adversely impacted by new development.

EN6b: Habitat Creation: Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN12: Design and Access Statements: Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems: Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN29: Archaeology: Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

TR1a: Development Affecting Highways: Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR3a: Provision for Walking: Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR4: Safeguarding and Improving Public Rights of Way: Encourages opportunities to expand the public right of way network.

TR5: Provision for Cycling: Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use: Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development: Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

### **Tendring District Local Plan 2013-2033 and Beyond: Preferred Options Consultation Document (Published July 2016)**

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development: Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SP4: Infrastructure and Connectivity: Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

SP5: Place Shaping Principles: Requires the highest standards of built and urban design and sets out the key principles that will apply to all new developments.

SPL1: Managing Growth: Identifies Elmstead Market as a 'rural service centre' within a hierarchy of settlements designed to direct future growth to the most sustainable locations.

SPL2: Settlement Development Boundaries: Seeks to direct new development to sites within settlement development boundaries.

SPL3: Sustainable Design: Sets out the criteria against which the design of new development will be judged.

HP1: Improving Health and Wellbeing: Requires a Health Impact Assessment on all development sites deliver 50 or more dwellings and financial contributions towards new or enhanced health facilities where new housing development would result in a shortfall or worsening of health provision.

HP4: Open Space, Sports and Recreation Facilities: Requires new developments to contribute to the district's provision of playing pitches and outdoor sports facilities and also

requires larger residential developments to provide land as open space with financial contributions toward off-site provision required from smaller sites.

LP1: Housing Supply: Sets out the broad location of where new housing is proposed to be built to over the next 15-20 years to meet objectively assessed needs. This application site is not included in the emerging Plan for housing.

LP2: Housing Choice: Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

LP3: Housing Density: Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

LP4: Housing Layout: Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

LP5: Affordable and Council Housing: Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing.

PP12: Improving Education and Skills: Requires the impacts of development on education provision to be addressed at a developer's costs and also requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PPL1: Development and Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

PPL3: The Rural Landscape: Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

PPL4: Biodiversity and Geodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

PPL5: Water Conservation, Drainage and Sewerage: Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PPL7: Archaeology: Where developments might affect archaeological remains, this policy requires proper surveys, investigation and recording to be undertaken.

CP1: Sustainable Transport and Accessibility: Requires the transport implications of development to be considered and appropriately addressed.

CP3: Improving the Telecommunications Network: Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

## Other Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

### 3. Relevant Planning History

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

Building Control and Access Officer	No comments at this time.
Environmental Health	Pollution and Environmental control have no comments to make on this application
Anglian Water Services Ltd	Note that AWA has assets located in close proximity to the development. Development is in the catchment of Thorrington Water Recycling Centre which has available capacity. Request full drainage strategy in respect of Foul Sewerage network.
ECC Highways Dept	<p>The Highway Authority has assessed the details of this application and in principle does not raise any objections. However, any reserved matters application should show the following details;</p> <ol style="list-style-type: none"><li>1) The access shall be constructed as a 5.5m road with 2x 2m wide footways, and 6m kerb radii at the bellmouth,</li><li>2) The access shall provide visibility splays measuring 2.4 x 90m in both direction. If these are unachievable and reduced visibility splays are proposed any reduction in requirements will be supported by a full speed survey showing that this reduction will not create a highway safety or efficiency issue.</li><li>3) A new 2m wide footway shall be constructed across the site frontage,</li><li>4) The two nearest bus stops on Clacton Road shall be improved with appropriate infrastructure to cater for the increase in public transport users</li><li>5) All parking and turning facilities will be provided in accordance with current policy standards,</li><li>6) All new dwellings shall be given transport information marketing packs.</li></ol>
Tree & Landscape Officer	The application site is agricultural land and has been planted with a winter wheat crop. There are established hedgerows on the northern, western and part of the eastern boundaries and a few individual trees and groups of trees in the hedgerows. There is a single Oak situated close to the southern boundary at a mid-point between the eastern and western boundaries.



In order to show the potential impact of the development on the tree the applicant has provided a Tree Survey and Report. The information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction; Recommendations.

The tree report provides an accurate description of the health, condition and amenity value of the trees on the land. The development of the land would necessitate the removal of part of the hedgerow on the western boundary in order to create a new access from the highway and the single Oak.

The removal of the section of hedgerow would not cause harm to the appearance of the area and mitigation planting could be carried out to compensate for the loss of the hedgerow and small hedgerow trees.

The large single Oak is a prominent feature in the landscape and has high visual amenity value. The tree report provides an accurate description of the health and condition of the tree. In this respect the tree has a reasonable safe useful life expectancy in its current setting but its defects mean that it is not viable in the long term if the development proposal is likely to proceed. Therefore it is not considered expedient to make it the subject of a tree preservation order (TPO).

As the development proposal does not threaten the removal of any of the boundary hedgerows or trees situated within them it is not considered necessary to formally protect any of those trees. If planning permission is likely to be granted then it may become necessary to protect boundary trees, by way of a TPO, to deal with post-development pressures.

The information contained in the tree report shows the extent of the trees Root Protection Areas (RPA's) that would need to be fenced off, to protect the roots of retained trees, during the construction phase of any development that may be given planning permission. Any development should be carried out in accordance with the information contained in the tree report

If planning permission were likely to be granted then a condition should be attached to secure details of the indicative soft landscaping shown on the site layout plan to soften, screen and enhance the appearance of the development.

In terms of the impact of the development proposal of the local landscape character it is important to note that the application site is within the Bromley Heaths Landscape Character Area (LCA) as defined in the Tending District Council Landscape Character Assessment. Key characteristics of the Bromley Heaths LCA are the exposed and windswept plateau with large scale productive arable fields divided by low gappy hedgerows. The LCA has a network of narrow lanes connecting scattered farms and villages. The area is typified by a low density settlement pattern.

The application site is not absolutely typical of the LCA however it is in an exposed location and views of the site from the Public Right Of Way running up to the site and through from the south will be affected

by the proposed development. Therefore it will be important to secure new landscaping on the southern boundary of the site to screen and enhance views of the development from the open countryside

Although the development is of a significant scale it is reasonably well contained by the school to the north, land that appears to be residential curtilage to the east and the highway (School Road) to the west. If soft landscaping were to be carried out on the southern boundary then the application site would be relatively well assimilated into its setting.

ECC Schools Service

Have requested a contribution to primary school provision of £227,255, for secondary school provision £230,156 and for school transport contribution of £52,303.20.

ECC SuDS Consultee

No objection subject to conditions requiring a detailed surface water drainage scheme.

Essex Wildlife Trust

Raise concerns regarding possible discharge of surface water into Elmstead Brook and potential for contamination.

Essex County Council  
Archaeology

Request attachment of condition for a programme of archaeological evaluation

## 5. **Representations**

- 5.1 Elmstead Market Parish Council has objected strongly to the application for the following reasons:

### **Countryside Location:**

The development would adversely affect the character and appearance of the local landscape. Landscape character is the subject of Policy EN1 which seeks to conserve the settings and character of settlements. The site is in a rural area on the very edge of the village with only 2 other houses nearby.

The location is visually isolated from the settlement of the village and this development would affect the street scene and the intrinsic character and beauty of the countryside which is predominantly rural in character.

Policy QL11 requires development to be compatible with surrounding land uses and this development would not be compatible as it's surrounded as follows: The current boundaries include: Special Needs School North – Stable units to the East – Agricultural Fields to the South – 2 isolated houses to the West.

The development is outside the existing village development parameters and would extend the village boundaries of development.

### **Village Growth**

The village already has 148 approved housing developments for a village size of just under 800. This equates to an 18.5% increase which is above the national 17% threshold. The addition of these 62 houses would take our percentage to over 26%. The applicant's planning statement paragraph 12 states that the six rural service centres, of which Elmstead Market is one, are expected to deliver 333 dwellings for the period to 31<sup>st</sup> March 2032. With the 148 already approved in Elmstead, the village is already providing more than a third of this total. We are clearly already exceeding suggested growth levels.

In total we have 72 houses in application (including these 62) and 36 awaiting an appeal decision.

Further development of this application will increase above the guidelines and start turning Elmstead into a town and not a village.

### **Facilities and Sustainability:**

No additional facilities or amenities have been included to help the sustainability of the village.

Village facilities are needed as the current facilities are unable to sustain further development.

The school adjoining this development is not the village primary school, but a special needs school for the whole of Essex.

### **Access:**

The development is situated on a single carriageway road and next to a busy school. The road enters into the village at a busy junction with no lights or roundabout. A development has already been agreed for 50 houses on the same road, the increase of traffic and construction vehicles would be excessive for the country road.

We are currently in negotiation with Essex County Council regarding our lease of the field next to this development. The lease includes an agreement to share this land with Market Field School. Essex County Council have asked us to explore ways we can make this field safe after some serious incidents for the pupils of the special needs school. We have submitted suggestions for improving the security of this field, but this development could pose further safety issues for the children in this school.

### **Housing:**

62 houses would be an over-development of the size of land and would equate to the largest single development for our village. The site offers no open greenspace and no amenities for the village.

### **Support Comments:**

We notice on the Tendring District Council website that there are letters of support for this development from people outside of the village. We recognise that they have children attending this school and feel a respite house would be a benefit to the school. Although we acknowledge this facility, it shouldn't be at the expense of the village and countryside, with the overpopulation it will cause.

An alternative arrangement could be found within the current households in Elmstead.

### **Local Business Objections:**

We have been approached by the owners of the stables which border the east of this development. They have asked us to support their objection of this development because

of the harm it would have on their livelihood and stables. The owners are concerned because the water coming off the development will flow into their conservation pond, and from there flows to the ornamental water gardens at Beth Chatto. Pollution or flooding would be extremely detrimental to these waterways. More details have been supplied with the objections made by Mr Jennings and The Beth Chatto Gardens.

### **Loss of Agricultural Land**

This development would incur the loss of another 11 acres of prime agricultural land.

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

- 5.2 Twenty six letters of objection and support for the scheme were received.
- 5.3 Of the 20 letters of support received comments related specifically to the additional play area and agricultural area to be set aside for use by the adjacent special needs school.
- 5.4 Objectors to the scheme raised the following comments:
  - Potential for flooding downstream.
  - Loss of agricultural land
  - Increased traffic and associated dangers
  - Impact on sewerage
  - Site outside development boundary

## **6. Assessment**

### **The Site**

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

### **The Proposal**

- 6.2 The application is for 62 dwellings associated garaging, parking and infrastructure with all matters reserved. The indicative layout supplied by the applicant shows a central site access from School Road serving a mix of dwelling types. Part of the layout is shown as a large oval shaped area accommodating 13 dwellings with the main service road through the site serving cul-de-sacs and leading to the east of the site to a large pond/swale which again is surrounded by new dwellings. The proposed layout is considered to make effective use of the available land. The applicant has also provided a Local Area for Play, an ecological corridor and a dedicated area for use by the adjoining school related to agriculture/horticultural projects. An existing public footpath across the site is shown as being retained.

### **Architectural Drawings**

- 16/08/01 – Location Plan

- 16/08/02 – Indicative Site Layout
- Indicative elevational/street scene drawings.

### **Reports and Technical Information**

- Planning Statement
- Design and Access Statement
- Ecological Assessment
- Flood Risk Assessment – 10851
- Transport Statement CCE/T241/TS-02
- Arboricultural Statement – 5464.

### **Main Planning Considerations**

The main planning considerations are:

- Local Plan and housing supply position;
- Principle of development;
- Highways, transport and accessibility;
- Landscape, visual impact and trees;
- Flood risk and drainage;
- Ecology;
- Education provision;
- Healthcare provision;
- Council Housing/Affordable Housing;
- Open space;
- Potential layout and density; and
- Overall planning balance

### **Local Plan and housing supply position**

- 6.3 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 material consideration in this regard.
- 6.4 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 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 216 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 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. 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 216 of the NPPF, they will be considered and, where appropriate, referred to in planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

- 6.5 On 19th January 2017, the Local Plan Committee resolved to approve a new Local Development Scheme (LDS) setting out a revised timetable for the next stages of plan preparation. The timetable proposes consultation on the final publication version of the Local Plan in June/July 2017 with submission of the plan to the Secretary of State in October 2017. The Local Plan comprises two parts – one jointly prepared on a sub-regional basis between Braintree, Colchester and Tendring Councils which promotes the establishment of new 'garden communities' and a second part containing policies for the Tendring area only. The examination of part 1 of the Local Plan is timetabled for December 2017 with the examination of part 2 to follow in April 2018. It is envisaged that, following a successful examination, the Local Plan will be adopted, in full, in September 2018.
- 6.6 It has been agreed by the Local Plan Committee that the objectively assessed housing need for Tendring will be set at 550 dwellings per annum based on the evidence contained with the 'Objectively Assessed Housing Need Study' November 2016 update produced by Peter Brett Associates on behalf of Braintree, Chelmsford, Colchester and Tendring Councils. In setting this figure, it has also been agreed that in the final publication version of the plan (due in June/July 2017) some land allocations will be deleted from the plan, namely in the Weeley area because the preferred options version currently over-provides.
- 6.7 In the recent appeal decision for land at Rush Green Road, Clacton, the Inspector commented on the use of 550 dwellings per annum as the housing needs figure and concluded that whilst the figure had not been tested through the development plan examination and there was some uncertainty about regarding 'UPC' (Unattributable Population Change), she considered that, in the interim, the Council's application of 550 dpa represented a broadly reasonable and pragmatic approach.
- 6.8 Further to setting the overall housing figure, the Local Plan Committee on 19th January 2017 agreed a methodology for calculating the five-year housing supply requirement of paragraph 47 in the NPPF as well as the calculation of what the Council believes the up to date housing land position to be. The estimated housing supply, predicted for 31st March 2017 is 4.4 years. With the approval of more residential planning applications since January, the Council is arguably even closer to achieving a 5-year supply. In the Rush Green Road appeal decision, the Inspector endorsed the Council's general approach to calculating the housing supply calculation and considered that, at the time of the appeal in December 2016, the shortfall was 'limited'.
- 6.9 Whilst the Council remains short of a full 5-year supply, paragraph 49 of the NPPF dictates that relevant policies for the supply of housing should not be considered 'up to date' and, in such cases, the 'presumption in favour of sustainable development' set out in paragraph 14 of the NPPF is engaged. 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.
- 6.10 The Council lost a number of planning appeals in 2016 because the Planning Inspectorate judged that the adverse impacts would not be outweighed by the benefits, particularly in light of the significant housing land shortfall. As the shortfall is eliminated or at least reduces to a negligible level, the pressure or urgency to approve schemes that run contrary to the Local Plan is much less, as evidenced by the Inspector's decision to dismiss the Rush Green appeal. This, combined with the strong progress of the Local Plan towards final submission stage where sites are to be deleted to reflect the lower agreed figure of 550dpa, leads Officers to recommend a more resistant approach to unnecessary and unwanted development proposals that do not accord with the development plan. In other words, at the present time, Officers consider that the plan-led approach to planning should prevail over

the need to release sites in the short term to meet what has become a relatively limited housing land shortfall.

### **Principle of development**

- 6.11 The application site is located immediately south of the existing development boundary for Elmstead Market and adjoins the Market Field School. The site is also located outside the village's settlement development boundary as defined within the emerging Local Plan. The boundary aims to restrict new development to the most sustainable sites and outside of the boundary the Local Plan generally seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.12 Because the site lies outside of the settlement development boundaries and is not allocated for development in either the adopted or emerging Local Plan, it is contrary to local policy. However, where Councils are short of identifying a five-year supply of deliverable housing sites, the NPPF's presumption in favour of sustainable development is engaged and applications must be considered on their merits. Over the course of 2016, this led to a number of major residential proposals being approved either by the Council or following an appeal.
- 6.13 With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations. Elmstead Market is categorised in emerging Policy SPL1, along with six other villages, as a 'Rural Service Centre' in recognition of its size and reasonable range of services and facilities, particularly when compared against many of the district's smaller rural villages. Rural Service Centres are the next most sustainable category of settlement following 'strategic urban settlements', 'smaller urban settlements' and 'expanded settlements' (of which Weeley is the only one). Therefore, a level of housing development for Elmstead Market could have the potential to be considered sustainable so long as detailed matters such as infrastructure provision and environmental impacts are considered and addressed.
- 6.14 As noted a key concern of the Parish Council is the fact that there are already 148 approved housing developments within the village. It is considered that the village does not have the facilities or services to sustain yet more residential development. The Parish Council have also raised concern with regard to access and the impact of additional traffic on School Road. Noting the Parish Council comments although Elmstead Market is categorised in the emerging Local Plan as a rural service centre where some sustainable growth could be supported, this is not a license to allow an unlimited or disproportionate level of growth in the village. The level of growth intended for rural service centres through the policies in emerging Local Plan, as set out in paragraph 2.50, is meant to be modest, fair, achievable and sustainable.
- 6.15 Now that the Council is very close to identifying a five-year supply of deliverable housing sites and the emerging Local Plan is progressing well, Officers consider that greater weight can be given to the core planning principles under paragraph 17 of the NPPF that development should be genuinely plan-led and that the Council should actively manage patterns of growth, should make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable. With this in mind, the Council should now be in a better position to protect villages from unfair, disproportionate and potentially unlimited levels of new housing.
- 6.16 Based on the agreed objectively assessed housing need of 550 dwellings per annum over the 20 year period 2013-2033, Tendring will be planning for a dwelling stock increase of some 11,000 which equates to an approximate 16% increase to the district's housing. It would therefore follow that a strategy seeking to direct the majority growth to larger and

more sustainable settlements will see dwelling stock increases above 16% in those settlements but for those villages further down the hierarchy, the growth would be proportionately less, and generally below 16%.

6.17 Major developments with planning permission in Elmstead Market already include:

- Charity Field, School Road, 50 dwellings (14/01728/OUT)
- Clacton Road, 32 dwellings (15/00675/OUT)
- Meadow Close, 20 dwellings (14/01238/OUT)
- Church Road, 20 dwellings (14/01292/OUT)

6.18 These 122 dwellings represent an approximate 17% increase in the village's housing which, based on the district-wide housing need for the whole of Tendring already delivers Elmsteads fair share of growth. If added to the permissions already granted, a further 62 dwellings as proposed in this outline application would increase the potential growth to around 26%.

6.19 The 62 dwellings proposed is a purely residential scheme that despite the land offered for use by the school, offers no exceptional economic, social or environmental benefits over and above any of the other schemes with planning permission that might lead Officers to consider the proposal in an exceptional light and there is no support from the Parish Council. Given the improving housing land situation, the positive progress of the Local Plan and lack of community support, Officers consider this to be an unnecessary and unwanted development that is contrary to the development plan and would exacerbate the community's concerns about the disproportionate level of housing going to Elmstead Market.

6.20 Officers therefore recommend the refusal of planning permission with the suggested refusal reasons forming the basis for the Councils case against the proposed scheme at the forthcoming appeal. As noted, the Rush Green appeal decision mentioned above demonstrates that Tendring is now in a stronger position to defend against unwanted proposals that are contrary to the adopted and emerging Local Plans.

### **Highways, transport and accessibility**

6.21 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe

6.22 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. As noted the application is in fact fairly well related to local facilities including the adjacent school and other village services located on Clacton Road. Bus stops are available within easy walking distance of the site. The site therefore offers a reasonable level of accessibility which is reflected in Elmstead Markets categorisation as a rural service centre in the emerging Local Plan.

6.23 Policy TRA1a 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 SD8 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.

- 6.24 The Parish Council and some local residents have raised concern about additional traffic and the cumulative increase in traffic that could arise as a result of the housing developments that have already obtained planning permission nearby. However the Highway Authority raises no objections in terms of highway capacity or safety to the application. From a pure highway capacity and safety perspective, it is accepted that the local network could technically accommodate the additional vehicles that would result from this development.
- 6.25 In conclusion, whilst the site enjoys good access to local facilities and the highway impacts are not considered to be severe, an additional 62 dwellings would increase traffic in the area and is clearly a concern within the community. The development is not required to meet local housing needs and in refusing planning permission for the reasons set out in this report, this concern can be averted.

### **Landscape, visual impact and tree**

- 6.26 As noted the site is open in nature with some level of mature planting and trees to the site boundaries. However development of the site would have a significant change to the character and appearance of this part of the village, particularly when viewed from the south. As noted by the Council's Principal Tree and Landscape Officer the application site is not absolutely typical of the existing Landscape Character Area although it is in a relatively exposed location - views of the site from the Public Right Of Way running up to the site and through from the south will be affected by the proposed development. Therefore it will be important to secure new landscaping on the southern boundary of the site to screen and enhance views of the development from the open countryside. The Principal Tree and Landscape officer concludes that although the development is of a significant scale it is reasonably well contained by the school to the north, land that appears to be residential curtilage to the east and the highway (School Road) to the west. If soft landscaping were to be carried out on the southern boundary then the application site would be relatively well assimilated into its setting.
- 6.27 If development were considered acceptable in principle, it is clear that the impacts on landscape character and on trees could be mitigated to an acceptable level. It would therefore not be appropriate to refuse planning permission on such grounds alone. The development would however bring about a significant change in the character of this area of the village which affectively lies at the southern gateway to the village. The loss of currently open undeveloped land would be an adverse impact to be weighed against the benefits of development. Because the development is not required to meet local housing needs it is recommended that planning permission be refused for the reasons set out in this report.

### **Flood risk and drainage**

- 6.28 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.

- 6.29 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. ECC supports the grant of outline planning permission subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place.
- 6.30 In conclusion, the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the scheme should comply with the NPPF and Policies QL3 and PPL1 of the adopted and emerging Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.
- 6.31 In addition, Anglian Water has commented upon the application, and confirm the foul drainage from the development is in the catchment of Thorrington Water Recycling Centre that will have available capacity for these flows. A foul water strategy would however need to be approved before development could take place. Based on the details contained within the FRA and Drainage Report and subject to appropriate conditions, it is considered that the application site could be developed in the manner proposed without any risk of flooding from or to the proposed development compliant with the aims and objectives of the NPPF as well as Local Plan Policies set out above.

#### **Ecology**

- 6.32 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.33 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as site of international, national or local importance to nature conservation and Officers consider that is sufficiently far from such designated sites not to warrant a further 'appropriate assessment' under the Habitat Regulations. The concerns raised by the Essex Wildlife Trust in respect of possible discharge of surface water into Elmstead Brook and potential for contamination are noted. However the applicant would be expected to provide full surface water drainage details for approval by condition and officers are satisfied that the concern raised can be adequately dealt with at that time.
- 6.34 The applicant has prepared and submitted an Ecological Assessment to assess the ecological value of this site and immediate area and the potential impact of the development. The report concludes that the site is not within any statutory conservation designation nor will it impact on any nearby such sites. Specific protected species have not been identified within the site but the report suggests additional investigation of a pond outside but close to the site should be assessed for the presence of Great Crested Newts.
- 6.35 Officers note the findings of the report and the potential to deliver an enhanced wildlife habitat within the proposed pond and future site landscaping. If the proposal were granted planning permission, the recommended mitigation/enhancement measures could be secured through a planning condition requiring an ecological plan to be agreed by the Council prior to the commencement of the development.

#### **Education provision**

- 6.36 Policy QL12 in the adopted Local Plan and Policy PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education provision.
- 6.37 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. The LEA have requested a contribution to primary school provision of £227,255 based on the fact that the Brightlingsea/Elmstead forecast planning group has a Primary school shortfall of 187 permanent places. A contribution for secondary school provision of £230,156 is requested based on the fact that the Colne Community School and College is forecast to have a deficit of 45 permanent places by 2020/21. A school transport contribution of £52,303.20 is also requested as the development would generate the need for transport provision for an additional 12.4 Primary school pupils.
- 6.38 It is recommended that one of the reasons for refusal put forward in defending the forthcoming appeal refers to the lack of a s106 to secure the necessary contributions. The applicant has not indicated they are unwilling to enter into such an agreement.

### **Healthcare provision**

- 6.39 The requirement of the NPPF to promote the creation of high quality environments with accessible local services that reflect the community's needs also extends to health provision, another matter of considerable concern amongst local residents. Again through Policy QL12 in adopted Local Plan and Policy HP1 in the emerging Local Plan, new development needs to be supported by the necessary infrastructure, including health provision.
- 6.40 As this the case across most parts of the district, local health services are operating either at, close to or above capacity in catering for the needs of the current population. One of the roles of the Local Plan is to ensure that major residential developments are planned alongside agreed investment in an area's infrastructure to accommodate anticipated increases in population.
- 6.41 In the absence of an up to date adopted Local Plan, Officers have needed to liaise with NHS England (with a strategic overview of health provision in our area) to calculate what investment will be required to mitigate the impact of this development and others proposed in the Elmstead Market area. Through adopted Policy QL12 and emerging Policy HP1, the Council can require developers to address infrastructure requirements likely to arise from their developments by either building new facilities or making financial contributions towards the creation of additional capacity.
- 6.42 However in this particular case although the NHS have been consulted through the application process no request has been received for contributions from this development.

### **Council Housing/Affordable Housing**

- 6.43 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or

acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.

- 6.44 If minded to approve this application, up to 19 of the proposed properties would need to be secured for affordable housing purposes through a s106 legal agreement. The lack of a s106 agreement to secure the necessary level of affordable housing will be included as a reason for refusal in order to defend the forthcoming appeal.

### **Open space**

- 6.45 Policy COM6 in the adopted Local Plan and Policy HP4 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. The Council's Open Space Team has not specifically commented on the application and it is therefore recommended that at least 10% of the site is laid out as open space and the site includes play provision to a LEAP standard.
- 6.46 If the on-site open space is to be transferred to Tendring District Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a s106 legal agreement. Again it is recommended that the lack of a s106 agreement forms part of the refusal reasons for the application which will be defended at the forthcoming appeal.

### **Potential layout and density**

- 6.47 As an outline planning application with all matters reserved, but if minded to approve, the Council would need to be satisfied that an appropriate scheme of up to 62 dwellings, with associated infrastructure and open space could be accommodated on the site in an appropriate manner.
- 6.48 The applicant has submitted indicative drawings to show how the scheme could potentially be laid out. These show an estate development served by a single access point from School Road leading through the site and serving an oval shaped area of dwellings along with other cul-de-sacs and an area of dwellings laid out around a new pond/swale to the east part of the site. The site density is just under 15 dwellings per hectare which taking into account the locality of the site on the edge of the village would be considered acceptable. An ecological corridor is shown to the northern boundary with more general landscaping indicated to the south-west corner of the site. A more detailed landscaping scheme would be required under Reserved Matters. A footpath is shown linking through to the school on the west boundary. As noted a 'school area' has been made available close to the northern boundary with direct access provided from the school. An existing footpath which runs north to south towards the western part of the site is retained.
- 6.49 There are no specific existing residential dwellings directly affected by the development although there are some existing dwellings located immediately opposite to the site entrance on School Road. Based on the indicative drawings, Officers consider that there is plenty of scope to achieve a detailed layout on the site that minimises impacts on the amenities of the neighbouring property and provides an attractive development on what is a relatively prominent site. It is not therefore proposed to make density a reason for refusal.

### **Overall Planning Balance**

- 6.50 This development proposal is contrary to both the Council's adopted and emerging Local Plans as it lies outside of the settlement development boundary. Throughout 2016, the Planning Committee were presented with a number of outline planning applications recommended for approval contrary to the Local Plan. For many of those proposals, refusal

of permission purely on matters of principle could not be justified because the adopted Local Plan was out of date, the emerging Local Plan was at an early and uncertain stage of preparation and the Council was a long way off of being able to identify a five-year supply of deliverable housing sites.

- 6.51 Under these circumstances, government policy in the National Planning Policy Framework (NPPF) required that development be approved unless the adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the NPPF suggest development should be refused. The NPPF in this regard applies a 'presumption in favour of sustainable development' for which sustainable development addresses economic, social and environmental considerations. Many applications were approved, either by the Council or on appeal, because it was judged that the overall balance of benefits against harm weighed in favour of development.
- 6.52 In March 2017 the Council finds itself in a stronger position to resist unnecessary and unwanted development proposals. The adopted Local Plan remains out of date but with the confirmation of the objectively assessed housing need at 550 dwellings per annum, the emerging Local Plan is expected to progress smoothly to the next stage of the process later this year – gaining weight as a material planning consideration at every step. The Council remains slightly short of identifying a full five-year supply of deliverable housing sites, but this is based on cautious assumptions and the Inspector in the Rush Green Road appeal endorsed the Council's general approach to calculating housing supply and commented that the shortfall is now limited.
- 6.53 Whilst it remains the case that the NPPF presumption in favour of sustainable development is still engaged, and applications must be considered on their individual merits, the Council's stronger position means that, in the overall planning balance, there is less urgency to accept developments that are contrary to the Local Plan to meet a short-term housing need. The balanced assessment of economic, social and environmental factors is set out as follows.
- 6.54 Economic: Whilst the scheme is residential with no commercial premises provided, 62 dwellings would generate additional expenditure in the local economy which has to be classed as an economic benefit. There will also be temporary jobs in construction whilst the homes are being built. The overall economic effect is therefore positive.
- 6.55 However due to a number of relatively recent planning consents Elmstead Market is already expected to accommodate a significant increase in population and there needs to be a sensible limit to how much development one village can be expected to accommodate. The economic role of sustainable development, as set out in the NPPF, specifically requires sufficient land of the right type be made available in the right places and at the right time – Officers consider that Elmstead Market is already providing land for its fair share of housing.
- 6.56 Social: The provision of 62 dwellings toward meeting projected housing need is a social benefit. However, this is tempered by the fact that the housing land shortfall against the five-year requirement is now 'limited' and this is based on cautious assumptions about projected delivery. Elmstead Market is expected to accommodate a significant number of new dwellings over the next five years as a result of existing planning consents which is more than sufficient to address short-term local housing needs and absorb market demand.
- 6.57 As noted by the Parish Council there is already planning permission for 148 new dwellings representing an 18.5% increase in dwelling numbers, the additional 62 dwellings would take this to 26%. This is considered a disproportionate level of housing for a village that, as a 'rural service centre' features in the fourth category of the settlement hierarchy. The social role of sustainable development, as set out in the NPPF, requires housing to meet the needs of present and future generations with accessible local services that reflect the

community's needs and support its health, social and cultural well-being. The NPPF advocates a plan-led approach that actively seeks to direct development to the most sustainable locations and to allow an unlimited level of development around Elmstead Market does not reflect the positive approach set out in the emerging Local Plan which is progressing well through the plan making process.

- 6.58 The impacts of schools provision could be mitigated through financial contributions to be secured through a s106 agreement, if the application were to be approved – but Officers consider that more weight can now be given to the plan-led process which is designed to deliver housing, economic growth and infrastructure in a coordinated way.
- 6.59 Environmental: As noted the site is of low ecological significance, although it is relatively prominent. Through mitigation measures, the ecological and landscape impacts of the development could be kept to a minimum, although the impact on the character of the area is likely, at best, to be neutral but more likely slightly adverse – not significant enough to justify an outright refusal of planning permission.
- 6.60 Local concerns about traffic have also been taken into account and whilst there is no technical objection to the proposal on highway capacity of safety, additional traffic in the village, would have some additional adverse impact on the character of the village. But this in itself is not sufficient to justify refusal.
- 6.61 In the overall planning balance, Officers consider that this development goes against the plan-led approach advocated in the NPPF and which the Council is actively securing through its emerging Local Plan. The housing land shortfall is no longer substantial enough to justify a significant departure from the plan-led approach which aims to direct development to the most suitable and sustainable locations. Elmstead Market already has a significant number of planning consents for residential development and at this stage further significant developments in the village are considered unnecessary, disproportionate and the impacts of continued development on the character and enjoyment of the village represent adverse impacts that are no longer significantly and demonstrably outweighed by the benefits.
- 6.62 Although the letters of support received in respect of the benefits being provided to the adjoining school are noted this in itself does not offer an exceptional public benefit over and above additional housing that might lead Officers to come to a more positive on-balance view. The application is recommended for refusal – in the knowledge that the housing land position is improving rapidly and the Local Plan is likely to progress to final submission stage this summer. Under these circumstances, Officers consider that the Council would be in a strong position to defend against the forthcoming appeal.

#### Background Papers

None.