

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AN	04/08/22
Planning Development Manager authorisation:	JJ	04/08/2022
Admin checks / despatch completed	CC	05.08.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	05/08/2022

Application: 22/00057/FUL **Town / Parish:** Elmstead Market Parish Council

Applicant: Mr Shaiky - Lanswood Limited

Address: Lanswood Park Broomfield Road Elmstead

Development: Proposed construction of 4 bed dwelling, infill with development site.

1. Town / Parish Council

Elmstead Parish Council
21.02.2022

Thank you for the additional time to respond. Elmstead Parish Council's Planning Committee considered the application at its meeting and decided it has no objections to this application.

2. Consultation Responses

UU Open Spaces
16.02.2022

Response from Public Realm
Open Space & Play

Application Details

Application No: 22/000057/FUL

Site Address: Lanswood Park Broomfield Road Elmstead

Description of Development: Proposed construction of 4 bed dwelling, infill with development site

Current Position

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

Recommendation

A contribution towards play and open space is justified and relevant to this planning

The Parish Council are developing new facilities at the site known as Charity Fields on School Road.

ECC Highways Dept
21.02.2022

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. It is noted that access to the proposed dwelling will be taken from the internal spine road via the existing development which is currently under

construction. The proposal provides adequate parking within the site, taking these factors into consideration:

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

1. Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of each vehicular access. Such visibility splays shall be retained free of obstruction above 600mm at all times and in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

2. No unbound material shall be used in the surface treatment of the vehicular access/ private drive throughout.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

3. There shall be no discharge of surface water onto the carriageway.

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.

4. Prior to occupation of the development the vehicular access shall be constructed at right angles to the carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (equivalent to 5 drop kerbs), 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. 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.

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

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

7. 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.

8. As indicated on drawing no. 01-01 Rev. A, the single garage should have a minimum internal measurement of 7m x 3m. All garages shall be retained for the purposes of vehicle parking in perpetuity

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.

9. 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 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

2: General note: areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.

3: 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.

Tree & Landscape Officer
25.01.2022

The application site forms part of a large scale residential development immediately adjacent to a large building used for agricultural purposes.

There is a small Goat Willow (*Salix caprea*) that appears to be off-site but close to the eastern boundary of the application site. The condition and amenity value of the tree are such that it is not a significant constraint on the development potential of the land.

No important trees or other significant vegetation will be adversely affected by the development proposal.

NHS East Essex CCG
22.03.2022

I have spoken to my colleague and we are happy for the S106 agreement to be completed without a S106 request for health included.

ECC Schools Service
08.03.2022

As you aware and set out below, an education contribution was not secured under TEN/20/239 due to viability and a Review Mechanism was not included in the s106 to allow for this request to be reassessed.

I understand that you are therefore assessing the current application (TEN/22/00057) as a stand-alone application and the site plan indicates as such. The lack of a viability assessment is noted, however, this application does not provide for a re-assessment of the whole site ie: 86 units. ECC would not respond to an application for less than 20units.

Housing Services
15.03.2022

I have the following comments in relation to application 22/00057/FUL:

The application proposes the delivery of 1 x 4 bedroom house. However, the site forms part of a larger approved development of 85 dwellings (20/00239/FUL) so the proposal is for effectively the 86th dwelling and as such, the affordable housing requirements in the Local Plan will apply. The Local Plan requires that 30% of the dwellings on eligible sites should be delivered as affordable housing so on this application this equates to 26 dwellings (25.8 rounding up).

20/00239/FUL was supported by a viability assessment confirming no affordable housing could be provided. No such evidence accompanies the current application.

There remains a high demand for housing in Elmstead Market and there are currently the following number of households on the housing register seeking accommodation in the village:

2 bed - 451 households
3 bed - 282 households
4 bed - 98 households

Given the demand for housing, TDC Housing would prefer to see the affordable dwellings delivered on-site. However in the absence of on-site affordable housing for 20/00239/FUL an off site commuted sum in scale with the uplift of one dwelling is required.

In terms of the sum itself, the Council would normally look to receive 10% of the open market value of 25.8 units on the site to meet the affordable housing requirements. 1/86th of this figure would therefore be justified under the current application.

Plot 49 of 20/00239/FUL is the same house type and is currently on the market for £590,000. The contribution is assessed as follows:

Market value £590,000
10% of open market value = £59,000
Value of 25.8 units = £1,522,200
Total contribution payable = £17,700

3. Planning History

20/00239/FUL	Hybrid planning application	Approved	27.01.2021
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	comprising Outline Application for up to 10,000sqm of new mixed use (B1, B2, B8) commercial space and 14 houses, and Full Permission for 71 houses. Existing access amended and new residential access to Clacton Road.		
08/01426/FUL	Erection of 4 no. buildings to be occupied as B1, B2 and B8 business units including ancillary A1 and A3 units (existing buildings to be demolished); and construction of new vehicular and pedestrian accesses.	Approved	31.03.2009
09/01284/NMA	Realignment of access road, creation of loop road (south east corner) to meet highway authority requirements, removal of existing tree (T30), provision of replacement heavy standard oak tree, associated parking layout amendment as detailed on drawing no. 4055/01L.	Refused	30.12.2009
10/00448/FUL	Erection of building to be occupied as A1, A2, A3, B1, B2, B8 and D1 (day nursery) (existing buildings to be demolished).	Approved	29.07.2010
15/00364/DISCON	Discharge of condition 10 (materials) of planning permission 08/01426/FUL.	Approved	24.04.2015
16/00126/NMA	Non-material amendment of planning permission 08/01426/FUL for a new monopitch roof design and squared footprint to building 2 and realignment of road and parking to east boundary and parking surrounding building.	Approved	18.03.2016
18/00901/NMA	Non material amendment to application to 17/00785/OUT - Reposition plots 5 and 6 90 degrees, minor amendments to road and parking layout.	Approved	04.07.2018
19/01178/EIASCOR	Request for an EIA Screening Opinion.		20.08.2019

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

- 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

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

- SPL1 Managing Growth
- SPL3 Sustainable Design
- HP1 Improving Health and Wellbeing
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

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 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, Paragraph 11 d) of the Framework requires granting 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 (what is often termed the 'tilted balance').

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

5. Officer Appraisal (including Site Description and Proposal)

Proposal

The proposal is effectively for the 86th dwelling in an already approved development (20/00239/FUL) of 85 dwellings. The opportunity for this single dwelling has arisen from detailed survey work associated with the construction phase which has confirmed additional space within the applicant's ownership.

Amended plans were received to change the proposed brick from cream to orange at the applicant's request.

Relevant History

Application 20/00239/FUL was a hybrid application for outline planning permission (access included with appearance, landscaping, layout and scale reserved for later consideration) for up to 10,000 square metres of employment floor space within use classes B1 (business), B2 (general industrial) and B8 (storage and distribution); and 14 houses. Plus a full planning permission element for 71 houses. The houses are at an advanced state of construction but the employment floor space has not yet been built.

21/01302/FUL was approved in March 2022 for amendments to the approved layout.

22/00253/FUL refused Proposed demolition of existing barn and erection of five dwellings with associated infrastructure to the east of the site in June 2022. The reason for refusal related to being outside a settlement development boundary and an incongruous and contrived layout with boundary treatments as the prominent feature within the street scene.

Assessment

This extra plot (14A) uses an already approved four bedroom house type and detached garage and it would appear as part of the approved housing estate as the 86th dwelling.

This extra plot reflects the existing building line, amenity space provision (in excess of 100 sq m) and would be wholly in keeping with the design and appearance of the approved development.

Amenity

The proposed plot retains good separation to the approved Plot 14 dwelling to the west with only a first floor bathroom and ensuite window on the facing flank therefore preserving privacy. The easterly and rear boundary are shared with an agricultural building.

Parking

Two off street parking spaces are provided in accordance with the parking standards with one contained within a generous detached single garage (7.1mx3.2m).

The Highway Authority have no objection subject to nine conditions as detailed above. These have been reworded where required e.g. to reflect that the proposed garage complies with/exceeds the dimensions specified and tandem parking isn't proposed.

Water Conservation, Drainage and Sewerage

Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment. The application form accompanying the application has stated that the development would be connected to the existing public foul sewer. This is in accordance with both national and local policy requirements and is therefore considered to be acceptable.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. All residential development must provide mitigation; the contribution is secured by legal agreement as detailed below. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with European legislation and local policy requirements.

Legal agreement

Although this application is only for one dwelling it is the 86th dwelling in a wider development and has therefore been treated as such for consultation purposes to secure any required contributions to make the development acceptable.

20/00239/FUL contained a S106 agreement for £430,000 to fund a 3G artificial grass pitch on Charity Field (£205,024 open space contribution and additional contribution of £224,976.00); the required RAMS contribution of £10,674.30 (£125.58 per dwelling); £50,000 towards the upgrade of the traffic signals and introduction of MOVA (movement sensor traffic light signals) for the A133 Clacton Road junction with Bromley Road, and £6,000 Travel Plan monitoring fee; and secured the enabling infrastructure to bring forward the commercial development. That application was subject to a viability assessment which confirmed the required education and affordable housing contributions were not viable.

The current application is not subject to a viability assessment. Education and NHS have confirmed they are not seeking contributions on this proposal for one infill dwelling.

As the site forms part of a larger approved development of 85 dwellings (20/00239/FUL) with the proposal being effectively the 86th dwelling, the affordable housing requirements in the Local Plan will apply. Policy LP5 requires that 30% of the dwellings on eligible sites should be delivered as affordable housing so on this application this equates to 26 dwellings (25.8 rounding up).

There remains a high demand for housing in Elmstead Market and there are currently the following number of households on the housing register seeking accommodation in the village: 2 bed - 451 households 3 bed - 282 households 4 bed - 98 households

Given the demand for housing, TDC Housing would prefer to see the affordable dwellings delivered on-site. However in the absence of on-site affordable housing for 20/00239/FUL an off site commuted sum in scale with the uplift of one dwelling is required. In terms of the sum itself, the Council would normally look to receive 10% of the open market value of 25.8 units on the site to meet the affordable housing requirements. 1/86th of this figure would therefore be justified under the current application.

Plot 49 of 20/00239/FUL is the same house type and was on the market for £590,000. The contribution was therefore assessed as follows:

Market value £590,000

10% of open market value = £59,000 Value of 25.8 units = £1,522,200

Total contribution payable = £17,700. This has been secured in the legal agreement.

The RAMS payment of £137.71 has been secured in the legal agreement.

Policy HP5 states that for residential development on a site of 1.5ha and above, where existing public open space and/or play equipment are inadequate, shall provide appropriate provision on-site or by way of a financial contribution towards the provision of new or improved off-site facilities to meet the projected needs of future occupiers of the development.

The Open Spaces team have confirmed there is currently a deficit of 4.51 hectares of equipped play/formal open space in Elmstead

Market. They recommend a contribution towards play and open space at Charity Fields on School Road is justified and relevant to this planning application and subject to improvement by the Parish Council. A contribution of £3,887 is secured under the S106.

Other considerations

No important trees or other significant vegetation will be adversely affected by the development proposal.

Representations

The Parish Council has no objection to the proposal. No other comments have been received.

Conclusion

This is considered to be a logical infill to the approved larger housing development, providing all required S106 contributions, and resulting in no material harm to visual or residential amenity, or highway safety.

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: 468-01-03-PT14 P1, GARAGE-01-01 A, T7-02-01 A and T7-03-01 B.

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

- 3 Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of obstruction above 600mm at all times and in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

- 4 No unbound material shall be used in the surface treatment of the vehicular access/ private drive throughout.

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

- 5 There shall be no discharge of surface water onto the carriageway.

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.

- 6 Prior to occupation of the development the vehicular access shall be constructed at right angles to the carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (equivalent to 5 drop kerbs), 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.

- 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.

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

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

- 9 Prior to occupation of the 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.

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.

Highways informatives

1: 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

2: General note: areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.

3: 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: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Public Open Space financial contribution in accordance with Policy HP5 and Policy DI1 of the adopted Tendring District Local Plan 2013-2033 and Beyond. Affordable housing contribution in accordance with Policy LP5 of the adopted Tendring District Local Plan 2013-2033 and Beyond.

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