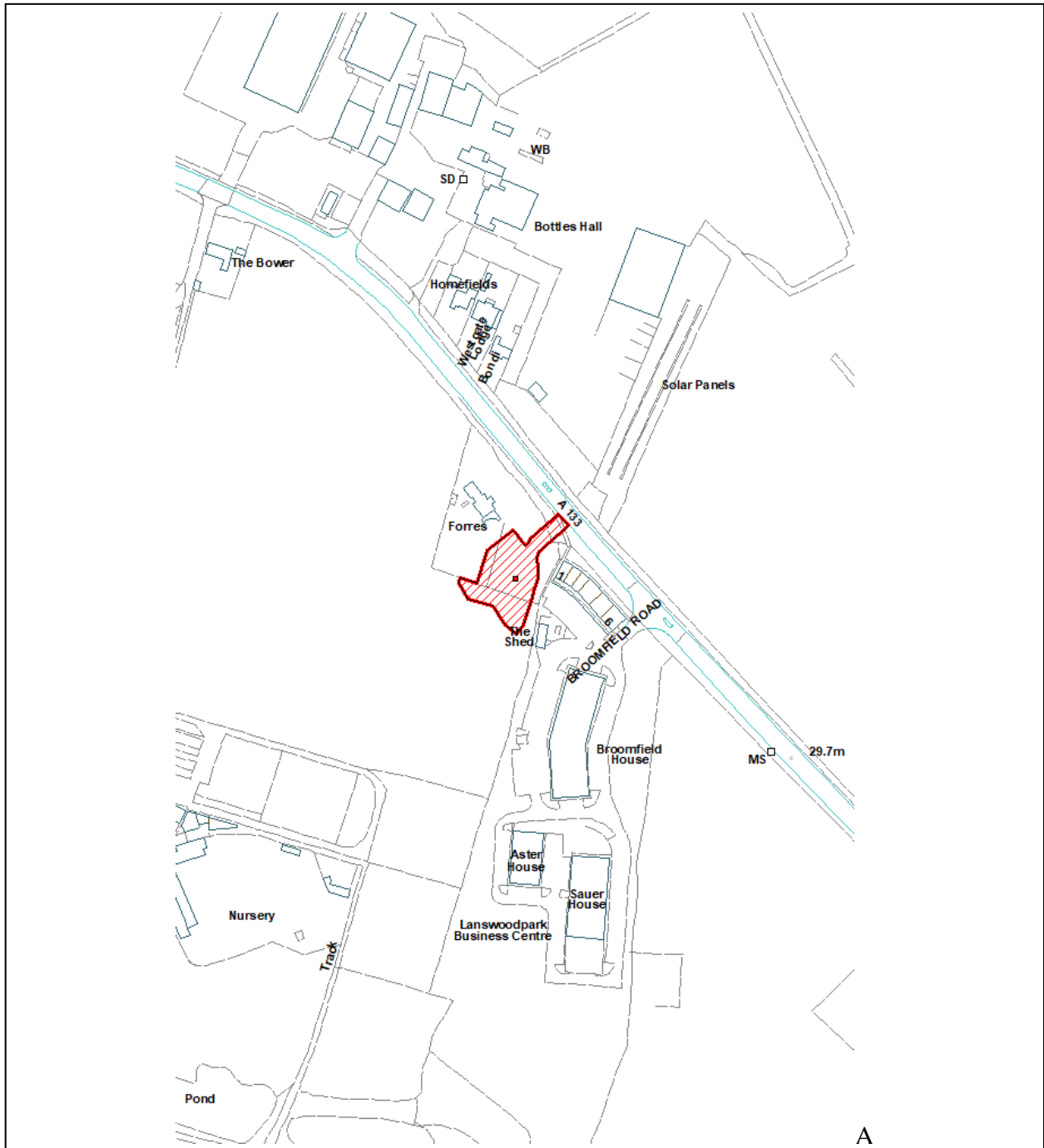


PLANNING COMMITTEE

31 August 2023

REPORT OF THE DIRECTOR OF PLANNING

A.2 PLANNING APPLICATION – 23/00794/FUL – LAND TO SOUTH EAST OF 'FORRES' CLACTON ROAD ELMSTEAD CO7 7DD



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Application:	23/00794/FUL	Expiry Date:	9th August 2023
Case Officer:	Amy Lang	EOT Date:	01 September 2023
Town/ Parish:	Elmstead Market Parish Council		
Applicant:	Heron Developments		
Address:	Land to South East of 'Forres' Clacton Road Elmstead CO7 7DD		
Development:	Proposed erection of a detached single storey dwelling with detached garage and landscaping.		

1. Executive Summary

- 1.1 The application is before Members as the proposal represents a departure from the Local Plan, proposing new residential development outside of the Elmstead Settlement Development Boundary (SDB) as defined within the adopted Tendring District Local Plan 2013 to 2033 and Beyond.
- 1.2 The application site is located on the southern side of Clacton Road (A133), on the outskirts of Elmstead Market, on land currently serving the garden area to the rear of the existing dwelling known as 'Forres'.
- 1.3 The application seeks full planning permission for the subdivision of the rear garden serving Forres and the erection of 1 no. detached single storey dwelling. The property will front Oak Tree Place, be served by a detached double garage and approximately 535 sqm of garden space.
- 1.4 To the rear of Forres and the application site is a development of 8 bungalows. The bungalows are served by a new access road, Oak Tree Place, between Forres and Lanswood Business Centre.
- 1.5 The site lies outside of the defined SDB of Elmstead and is therefore contrary to the spatial strategy set out within adopted Local Plan Section 1 Policy SP7 and Section 2 Policy SPL2. Local Plan policy SPL2 does not preclude residential development outside of the defined boundary, but rather requires careful consideration of the scale of development in relation to the settlement hierarchy category, site-specific characteristics, and sustainability of the site.
- 1.6 The adjacent development was originally approved for 9 dwellings (ref. 19/01211/DETAIL), superseded by the full permission for 8 bungalows now under construction (ref. 20/01840/FUL, varied by 21/00908/FUL). The application site itself broadly encompasses a portion of the land previously approved as part of the wider development. Had the previously approved scheme been built out, this would have accommodated a total of 9 detached dwellings. The current proposal would result in a total of 9 dwellings on the overall site. The development would essentially appear as an infill plot, would appear as part of the existing adjacent development, and not result in any harm to the character of the area or wider street scene.
- 1.7 Elmstead Market is identified as a 'rural service centre' with a reasonably good range of services and facilities. The site lies approximately 0.22 miles (353 metres) from the edge of the defined settlement and 0.65 miles (1.05km) from the village centre. The site benefits from a pedestrian crossing and footpath link along Clacton Road. Furthermore, there are bus stops almost directly to the front of the site which provide services covering Alresford, Brightlingsea, Colchester, Manningtree, Clacton and Jaywick.

- 1.8 Officers are satisfied that existing services and facilities within the settlement would be capable of supporting the development of 1 dwelling, and that these are accessible within safe walking distance of the site.
- 1.9 Other than the high-level policy conflict in regard to the location of the site outside the defined settlement development boundary, the development would not result in any material harm in terms of design, impact, residential amenities or highway safety, and is acceptable in all other regards. For these reasons, the application is recommended for approval.

Recommendation: Approval subject to Unilateral Undertaking

- 1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control to secure the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:
 - Financial contribution in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) totalling £156.76 per dwelling (index linked)
- 2) That the Head of Planning and Building Control be authorised to grant planning permission subject to the agreed section 106 agreement and conditions as stated at paragraph 10.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 3) The informative notes as may be deemed necessary.

Or;

- 4) That in the event of the Head of Planning and Building Control or requirements referred to in Resolution (1) above not being secured and/or not secured within 12 months that the Head of Planning and Building Control be authorised to refuse the application on appropriate grounds at their discretion.

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), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) 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.

2. Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

The weight that can be attributed to a neighbourhood plan depends on its progress. The stages of the process can be summarised as follows:

- Stage 1: Designated neighbourhood area (Limited Weight)
- Stage 2: Preparing a draft neighbourhood plan (Limited Weight)
- Stage 3: Pre-submission publicity and consultation (Limited Weight)
- Stage 4: Submission of a neighbourhood plan (Limited Weight)
- Stage 5: Independent Examination (Limited/Significant Weight)
- Stage 6: Referendum (Significant Weight)
- Stage 7: Adoption by LPA (Full Weight)

3. Elmstead Neighbourhood Plan

At the time of writing this report, Cabinet have agreed to the submission made by Elmstead Parish Council and agreed to the Neighbourhood Plan (NP) and Neighbourhood Development Order (NDO) to progress to public consultation (under Reg 16). Public consultation is likely to commence mid-September and will run for a period of six weeks. Elmstead NP can therefore be understood as nearing stage 4 of the process. At this current time, due to the progress of the Elmstead Neighbourhood Plan there is no need to consider the draft policies as part of this application.

4. Planning Policy

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

National:

National Planning Policy Framework July 2021 (NPPF)
National Planning Practice Guidance (NPPG)

Local:

Tendring District Local Plan 2013-2033 and Beyond Section 1
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
SP6	Infrastructure and Connectivity
SP7	Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable Housing
LP7	Self-Build and Custom-Built Homes
LP8	Backland Residential Development
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility
DI1	Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
Essex Design Guide

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

5. Relevant Planning History

16/01690/OUT	Proposed erection of up to 9 no. dwellings and associated out-buildings with access onto Clacton Road (A133).	Approved	16.12.2016
19/01211/DETAIL	Construction of 8 new dwellings with associated development and landscaping (approval of reserved matters Layout, Scale, Appearance and Landscaping following approval of 16/01690/OUT - Access already approved under 16/01690/OUT).	Approved	12.11.2019
20/01840/FUL	Proposed 8 bungalows and associated access roads and landscaping.	Approved	09.04.2021
21/00908/FUL	Variation of condition 2 (Approved Plans) of approved application 20/01840/FUL to allow more distance for the pedestrian refuge island.	Approved	22.03.2022

6. Consultations

- 6.1 Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.
- 6.2 All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

ECC Highways Dept

No objection subject to conditions

29.06.2023

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on submitted material. No site visit was undertaken in conjunction with this planning application. The proposed dwelling would be served by the newly constructed access from Clacton Road serving the adjacent development. Having regard to the number of units already approved on the site and the size of the access, road width and turning areas, the introduction of an additional dwelling would not have a severe highways impact. It is noted that by reducing the scheme to one dwelling from two at the pre-application stage, this has allowed for the driveway and garage to be repositioned further into the sites access drive and away from the road curvature. The proposal provides adequate parking for the size of dwelling.

UU Open Spaces

No contribution requested

29.06.2023

Play Space - current deficit of 1.47 hectares of equipped play in Elmstead
Formal Play - current deficit of 3.04 hectares of open space in Elmstead
Settlement provision - Old School Lane 0.5 miles away

Officer Conclusions and Recommendations – No contribution required.

The current facilities are adequate to cope with this development. The Parish Council have plans in place to increase the provision of play and open space in Elmstead and have already received some funding for this.

Environmental Protection

No objection subject to conditions

26.06.2023

In order to minimise potential nuisance caused by ground works and construction, Environmental Protection recommend that the following below is conditioned.

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

- No materials produced as a result of the site development or clearance shall be burned on site.

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

No objection subject to securing:

- a) a proportionate financial contribution towards Essex Coast RAMS
- b) biodiversity mitigation and enhancement measures

7. Representations

7.1 Parish Council

No comments have been received from Elmstead Market Parish Council.

7.2 Neighbours

No letters of objection or representation have been received.

8. Assessment

8.1 The main planning considerations relevant to the assessment of the proposed development are:

- Background and Planning History
- Site Description and Context
- Proposed Development
- Principle of Development
- Scale, Appearance, and Impact
- Trees and Landscaping
- Impact on Residential Amenities
- Highway Safety and Parking
- Sustainable Construction & Design
- Drainage and Foul Sewage Disposal
- Biodiversity Mitigation and Enhancement
- Planning Obligation – Open Space and Play Space
- Planning Obligation – Recreational Disturbance

Background and Planning History

- 8.2 The original approval for the wider residential development of the site (land rear of Forres) under application reference 16/01690/OUT, was approved at a time when the Council was unable to demonstrate a five-year supply of deliverable housing sites. In the absence of an up to date fully adopted Local plan, the tilted balance as set out within the National Planning Policy Framework applied. Outline planning permission was granted for up to 9 no. dwellings.
- 8.3 Application 19/01211/DETAIL followed approving the scale, layout, appearance and landscaping for 8 detached dwellings, including 1 unique, large plot originally intended for the applicant and thus designed to suit their specific living requirements.
- 8.4 It is understood that the original applicant and landowner subsequently sold the site onto South East Commercial Homes LLP. South East Commercial Homes LLP then submitted application 20/01840/FUL seeking full permission for the erection of 8 no. bungalows, essentially varying the previously approved development (with a fresh full approval).
- 8.5 The development of 8 bungalows under planning application reference 20/01840/FUL (varied by 21/00908/FUL) is nearing completion.

Site Description and Context

- 8.6 The application site is located on the southern side of Clacton Road (A133), on the outskirts of Elmstead Market, on land currently serving the garden area to the rear of the existing dwelling known as 'Forres'.
- 8.7 To the rear of Forres and the application site is a development of 8 bungalows currently under construction. The bungalows are served by a new access road, Oak Tree Place, between Forres and Lanswood Business Centre.
- 8.8 The site is currently enclosed by a high, close boarded fence running along the back edge of the footway, following the curve in the new access road.
- 8.9 The site is outside of the settlement development boundary as defined on Local Plan Map B.8: Elmstead Market. The site measures approximately 0.1 hectares and is in Flood Zone 1: low risk.
- 8.10 The application site itself is comprised of land mainly within the residential curtilage of Forres, along with a small stretch of land alongside the access road which is associated with the development of 8 bungalows. The land is irregular in shape due to the existing constraints of the access road, foul drainage infrastructure in the garden associated with Forres and boundary of Plot 8 of the adjacent scheme. The site broadly encompasses some land originally approved for a single unit approved as part of the wider development.
- 8.11 There are several mature trees on and adjacent to the application site, and the applicant has provided a Tree Survey Report assessing the potential impact of the proposed development on the trees situated on the land.

Proposed Development

- 8.12 The application seeks full planning permission for the erection of 1 no. detached, 3 bedroom, single storey dwelling served by a detached double garage (with 4 parking bays to the garage frontage).
- 8.13 The proposed bungalow would front the new access road and be sited over 20 metres to the south of Forres. The detached double garage would be sited to the southern side of the proposed bungalow, adjacent to the garage serving Plot 8 of the adjacent development.
- 8.14 The accompanying plans show extensive new landscaping to all boundaries, with post and rail fencing and new native hedge planting to the frontage. The accompanying Tree Survey Report identifies the need for the removal of a Pine tree directly adjacent to the site, within the remaining rear garden of Forres (T15 on the accompanying block plan).
- 8.15 The irregular shape of the plot and spacing around the dwelling provides generous pockets of private amenity space, amounting to approximately 535 sqm overall.

Principle of Development

Policy Considerations

- 8.16 Adopted Tendring District Local Plan 2013-2033 and Beyond Section 1 (TDLPS1) Policy SP1 states that when considering development proposals, the LPA will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. They will always work pro-actively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Development that complies with the Plan will be approved without delay unless material considerations indicate otherwise.

- 8.17 TDLPS1 Policy SP3 describes the overarching spatial strategy for growth across North Essex up to 2033. It provides that existing settlements will be the principal focus for additional growth and that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. It states that future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting.
- 8.18 Policy SP3 in Section 1 of the Local Plan also provides that the Section 2 Local Plan for each local planning authority will identify a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs. It is TDLP Section 2 (TDLPS2) that subsequently gives effect to the overarching spatial strategy through Policy SPL1 which defines the settlement hierarchy in Tendring and Policy SPL2 that determines how sustainable development will be achieved. Policy SPL2 thus states that to encourage sustainable patterns of growth and to carefully control urban sprawl, each settlement listed in Policy SPL1 is defined within a 'Settlement Development Boundary' as shown on the relevant Policies Map and Local Map. It goes on to state that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.
- 8.19 Policy SPL2 of the TDLP indicates that outside of settlement development boundaries, the Council will consider proposals in relation to the pattern and scales of growth promoted through Policy SPL1 and other relevant development plan policies.

Site Specific Considerations

- 8.20 Whilst the site falls within the Parish of Elmstead, the site itself is located outside of the defined settlement boundary for the area as identified on Local Plan Policy Map B.8 Elmstead Market. As such, by virtue of its location outside the settlement development boundary, the proposal is contrary to the strategy set out in Policy SPL2, and the starting point is one of refusal.
- 8.21 However, the supporting text of Policy SPL2 indicates that settlement development boundaries have been drawn flexibly to allow for some limited development within, or on the edge of villages, providing for some opportunities for small-scale and infill development within these boundaries.
- 8.22 The site lies approximately 0.22 miles (353 metres) from the edge of the defined settlement and 0.65 miles (1.05km) from the village centre.
- 8.23 As stated above, TDLPS1 Policy SP3 provides that existing settlements will be the principal focus for additional growth but does allow consideration for development to be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. It states that future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting.
- 8.24 Officers recognise that the site is not 'within' or 'adjoining' the defined settlement of Elmstead. However, as with all development proposals, it must be considered on its own merits and have regard to all relevant material planning considerations. In this instance, officers consider the site-specific planning history, site context, distance of the site to the defined SDB and the categorisation of the settlement are significant to the assessment of this proposal.
- 8.25 TDLPS2 Policy SPL1 defines a settlement hierarchy in which Elmstead Market is identified as a 'rural service centre'. TDLP paragraph 3.3.1.3.1 sets out that some rural service centres will accommodate a 'modest increase in housing stock, where appropriate, within the plan period'.

The text also explains that such development will be of a scale that is proportionate, achievable, and sustainable for each of the settlements concerned, having regard to the existing size and character of each settlement; their more limited range of jobs, shops, services and facilities; and any physical, environmental or infrastructure constraints.

- 8.26 Elmstead Market has a reasonably good range of services and facilities including (but not limited to) various shops, a school and a petrol station. The site benefits from a pedestrian link along Clacton Road, linking directly with the majority of these services and facilities. The footways are of a reasonable width and appear well maintained. Officers recognise that Elmstead Market has been a focus of substantial residential growth in the recent past. However, due to the small scale of the proposal, officers are satisfied that existing services and facilities within the settlement would be capable of supporting the development. Furthermore, there are bus stops almost directly to the front of the site which provide excellent services covering Alresford, Brightlingsea, Colchester City, Manningtree, Clacton and Jaywick.
- 8.27 The wider overall site has been the subject of an earlier approval for 9 dwellings under application reference 19/01211/DETAIL. This approval was superseded by a full permission for 8 bungalows. The application site itself broadly encompasses a portion of the land previously approved for a single unit (as part of the wider development of 9). Had the previously approved scheme been built out, the overall site, including this current application site, would have accommodated a total of 9 detached dwellings.
- 8.28 The current proposal would result in a total of 9 dwellings on the overall site. The development would essentially appear as an infill plot and appear as part of the existing adjacent development.
- 8.29 Other than the high-level policy conflict, in regard to the location of the site outside the defined settlement development boundary, the pattern and scale of development proposed is considered compliant with the settlement hierarchy credentials promoted through Policy SPL1. Officers are satisfied that existing services and facilities within the settlement would be capable of supporting the development of 1 dwelling, and that these are accessible within safe walking distance of the site.
- 8.30 For these reasons, the proposal is considered to represent sustainable development. Officers consider that, the specific merits of the site and case would not set a harmful precedent for further development outside defined settlement boundary and would not prejudice the overall spatial strategy of the District.

Scale, Appearance, and Impact

- 8.31 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 127 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 8.32 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place.
- 8.33 The proposed dwelling is a generously spaced, well-designed detached property that will appear as a complementary continuation of the recent, adjacent development. The garage is positioned to the south, set back from the front elevation and obscured from view.

- 8.34 The proposed development will replace a portion of the existing high, close boarded fence along the side boundary of Forres. This currently dominates the entrance to Oak Tree Place. The double fronted design, bay window feature and soft landscaping will result in an improvement to the entrance to the development, and an attractive transition to the dwellings behind.
- 8.35 For these reasons, the development will not result in any harm to the character of the area or wider street scene.

Trees and Landscaping

- 8.36 Paragraph 131 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible.
- 8.37 TDLP2 Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.
- 8.38 To show the potential impact of the proposed development on the trees situated on the land the applicant has provided a Tree Survey Report. The report covers the trees on the application site and includes details of other trees not affected by the development proposal and consequently not addressed in these comments. The report provides an accurate description of the condition and amenity value of the trees on the land and has been carried out in accordance with BS5837 2012 Trees in relation to design demolition and construction. Recommendations.
- 8.39 Information contained in the tree survey shows the retention of an Oak (T13), the Corylus (T15) and an Arbutus (T16). The Oak has moderate amenity value and will be retained, contributing positively to the site. The Tree Survey Report identifies the need for the removal of a Pine (T15). The Pine has significant defects, and its removal is considered acceptable.
- 8.40 Section 10 of the Design and Access Statement submitted with the application refers to indicative soft landscaping. Should Members resolve to approve the application, detailed planting proposals will be secured by condition to soften, screen and enhance the appearance of the proposed development.

Impact on Residential Amenity

- 8.41 Paragraph 130 (f) of the National Planning Policy Framework (2021) states that planning should always seek to secure a good standard of amenity for all existing and future occupants.
- 8.42 Section 1 Policy SP7 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Furthermore, Policy LP4 seeks to ensure that new dwellings are served by a private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area.
- 8.43 Due to the generous and spacious plot, officers are content that the development will achieve an internal layout and relationship with neighbouring dwellings that would not result in any material harm to residential amenities in terms of loss of light, sunlight, overlooking, privacy or outlook.
- 8.44 Officers note the presence of the mature tree to be retained to the rear of the dwelling which will cause a degree of overshadowing. However, the irregular shape of the plot and spacing around

the dwelling provides generous pockets of private amenity space, amounting to approximately 535 sqm overall.

- 8.45 Due to the separation distance, existing mature trees and juxtaposition with Forres, there will be no overlooking to the private garden area of the proposed dwelling.
- 8.46 For these reasons, the proposed development will secure a good standard of amenity for all existing and future residents.

Highway Safety and Parking

- 8.47 Paragraph 110 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.
- 8.48 The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages should have internal dimensions of 7 metres by 3 metres (if being replied upon as a parking space).
- 8.49 The proposed dwelling would be served by the newly constructed access from Clacton Road serving the adjacent development. Having regard to the number of units already approved on the site and the size of the access, road width and turning areas, the site is considered accessible in terms of highway safety.
- 8.50 The dwelling will be served by a detached double garage with 4 parking bays to the garage frontage, being in excess of the EPOA Parking Standard requirements for a 3 bedroomed dwelling.

Sustainable Construction & Design

- 8.51 Policy PPL10 of the Local Plan states that 'all development proposals should demonstrate how renewable energy solutions, appropriate to the building(s) site, and location have been included in the scheme and for new buildings, be designed to facilitate the retro-fitting of renewable energy installations'.
- 8.52 The use of electric vehicle charging points, green/brown roofs, PV panels and SuDS to aid the sustainability of the development should be an integral part of the design, for both the existing and proposed dwelling.
- 8.53 Should Members resolve to approve the application, these requirements can be achieved via an appropriately worded condition.

Drainage and Foul Sewage Disposal

- 8.54 Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Connection to the mains is the preferred but if this is not possible, the next appropriate method as detailed within the drainage hierarchy and building regulations requirements.
- 8.55 The applicant has undertaken a utilities search showing that the sewerage company (Anglian Water) do not have assets in this area.

- 8.56 The applicant has advised that the adjacent scheme of bungalows is served by package treatment plants discharging to a surface water drain across Beth Chatto land to connect into the reservoirs to the south. The applicant has a legal agreement in place to be able to do the same.
- 8.57 The detailed design of the treatment plant will be finalised at the building regulations stage, and the system will be installed and maintained in compliance with the general binding rules.

Protected Species and Biodiversity

- 8.58 Paragraph 180 of the NPPF states that, when making planning decisions local planning authorities need to assess whether significant harm to biodiversity could result from the development. The NPPF goes on to state the hierarchy that should be applied to mitigate any harm to ecology that is identified. Paragraph 174 of the NPPF requires that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst Paragraph 179 requires local planning authorities to safeguard components of local wildlife-rich habitats.
- 8.59 TDLPS2 Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.
- 8.60 The application is supported by the Preliminary Ecological Appraisal (by Skilled Ecology, dated May 2023) assessing the likely impacts of the development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures.
- 8.61 Consultation has been undertaken with Essex County Council Place Services Ecology who have reviewed all supporting information.
- 8.62 Sufficient ecological information is available for determination of this application and the development is considered acceptable subject to necessary conditions securing biodiversity mitigation and enhancement measures, and a legal agreement securing a proportionate financial contribution towards RAMS.

Planning Obligation – Open Space and Play Space

- 8.63 TDLP Section 2 Policy HP 5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. TDLP Section 2 Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure. Where a development proposal requires additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority and the appropriate infrastructure provider. Such measures may include financial contributions towards new or expanded facilities and the maintenance thereof.
- 8.64 Consultation has been undertaken with the Council's Public Realm Team who have confirmed that the current facilities are adequate to cope with this additional development. The Parish Council have plans in place to increase the provision of play and open space in Elmstead but have already received funding for this.
- 8.65 In this instance, no contribution is being requested.

Planning Obligation – Recreational Disturbance

- 8.66 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding

public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) mitigation measures will need to be in place prior to occupation.

8.67 This residential development lies within the Zone of Influence. In order to ensure that the development would not adversely affect the integrity of Habitats sites in line with TDLP Section 2 Policy PPL4 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017 a proportionate financial contribution in accordance with the emerging Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) is required.

8.68 The applicant is in the process of completing a Unilateral Undertaking to secure the required contribution in accordance with the above policies and regulations.

9. Conclusion

9.1 The site lies outside of the defined SDB of Elmstead and is therefore contrary to the spatial strategy set out within adopted Local Plan Section 1 Policy SP7 and Section 2 Policy SPL2. Local Plan policy SPL2 does not preclude residential development outside of the defined boundary, but rather requires careful consideration of the scale of development in relation to the settlement hierarchy category, site-specific characteristics, and sustainability of the site.

9.2 The application site itself broadly encompasses a portion of the land previously approved as part of the wider development. Had the previously approved scheme been built out, this would have accommodated a total of 9 detached dwellings. The current proposal would result in a total of 9 dwellings on the overall site.

9.3 Elmstead Market is identified as a 'rural service centre' with a reasonably good range of services and facilities. The site benefits from a pedestrian crossing and footpath link along Clacton Road, as well as nearby bus stops with regular services. Officers are satisfied that existing services and facilities within the settlement would be capable of supporting the development of 1 dwelling, and that these are accessible within safe walking distance of the site.

9.4 Other than the high-level policy conflict in regard to the location of the site outside the defined settlement development boundary, the development would not result in any material harm in terms of design, impact, residential amenities or highway safety, and is acceptable in all other regards.

9.5 For these reasons, the application is recommended for approval.

10. Recommendation

10.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS	£156.76 x 1no. dwelling (index linked)

10.2 Conditions and Reasons

1. COMPLIANCE: TIME LIMIT

CONDITION: 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. COMPLIANCE: APPROVED PLANS AND DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local planning authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local planning authority as a non-material amendment following an application in that regard. Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the local planning authority prior to the commencement of development pursuant to this condition.

- 23/05/01 Site Plan
- 23/05/02 Existing Block Plan
- 23/05/03 Proposed Block Plan
- 23/05/04 Proposed Elevations, Floor and Roof Plan
- 23/05/05 Proposed Garage Elevations, Floor and Roof Plan
- Drainage Information – Plan, Status Report and Cover Email received 2.8.2023
- Update Preliminary Ecological Appraisal & Protected Species Scoping Assessment Update Survey May 2023
- Tree Survey Report May 2023 and Appendices
- Materials details within the accompanying application form

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

3. FURTHER APPROVAL: HARD AND SOFT LANDSCAPING SCHEME

CONDITION: Prior to the commencement of any above ground works, a scheme of hard and soft landscaping shall be submitted to and approved, in writing, by the local Planning Authority. The scheme shall include any proposed changes in ground levels, accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction". The proposed new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay and retained free of obstruction above 600mm at all times.

REASON: In order to enhance the appearance of the development, in the interests of visual amenity and the quality of the development, and in the interests of highway safety.

4. COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED: LANDSCAPING SCHEME

CONDITION: All changes in ground levels, soft/hard landscaping shown on the approved landscaping details shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development, or in such other phased arrangement as may be approved, in writing, by the local planning authority up to the first use/first occupation of the development. Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are

removed, seriously damaged or seriously diseased, within a period of 10 years of being planted, or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and same species unless otherwise agreed in writing by the local planning authority.

REASON: To ensure that the approved landscaping scheme has sufficient time to establish, in the interests of visual amenity and the character and appearance of the area.

5. COMPLIANCE: TREE PROTECTION DURING CONSTRUCTION

CONDITION: The tree protection measures set out within the Tree Survey Report May 2023 Appendix 3 shall be erected prior to any demolition, site clearance or construction works and retained throughout the construction phase of the development hereby approved.

REASON: To ensure the retention of existing trees on site, in the interests of visual amenity and the quality of the development.

6. COMPLIANCE: 10 YEAR TREE PROTECTION

CONDITION: For 10 years following from the commencement of development, none of the existing trees on the site as shown on the approved drawings shall be lopped, topped, felled, have their roots severed or be uprooted without the prior written approval of the Local Planning Authority. Any trees felled, uprooted, dying or being seriously damaged as a result of actions taken without such prior written approval shall be replaced in the next planting season (October - March inclusive) in the same siting with others of similar size and species.

REASON: To enable existing landscaping to be protected and retained in the interests of visual amenity.

7. COMPLIANCE: PERMEABLE SURFACING

CONDITION: All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site area.

REASON: In the interests of sustainable development and to minimise the risk of surface water flooding.

8. FURTHER APPROVAL: CONSTRUCTION MANAGEMENT TO BE AGREED

CONDITION: Prior to the commencement of development, details of the construction methodology, layout plan and timetable shall be submitted to and approved, in writing, by the Local planning authority. This shall incorporate the following information:-

- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
- d) Details of any protection measures for footpaths and trees surrounding the site.
- e) Details of any means of access to the site during construction.
- f) Details of the scheduled timing/phasing of development for the overall construction period.

- g) Details of measures to control the emission of dust and dirt during construction and including details of any wheel washing to be undertaken, management and location it is intended to take place.
- h) Details of the siting of any on site compounds and portals.
- i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- j) Site waste management plan (that shall include reuse and recycling of materials).
- k) Scheme for sustainable construction management to ensure effective water and energy use.
- l) Scheme of review of complaints from neighbours.
- m) Registration and details of a Considerate Constructors Scheme.
- n) Details on the provision, location and management of any show home/s or reception, including opening times, parking and advertisements (including flags and directional signs for the development and details of times for removal when not required).

The said methodology as may be approved shall be implemented in its entirety and shall operate as may be approved at all times during construction.

REASON: To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm on amenity.

9. FURTHER APPROVAL: RESIDENTIAL TRAVEL PACK PRIOR TO OCCUPATION

CONDITION: Prior to first occupation of each dwelling, a Residential Travel Information Pack (travel pack) shall be provided to each dwelling for use of its first occupiers. The travel pack shall be agreed, in writing, by the local planning authority prior to provision and shall include a minimum of six one day travel vouchers for use with a local transport operator.

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

NOTE FOR CONDITION: Please contact the Travel Plan Team at ECC Highways via email to Travel.PlanTeam@essex.gov.uk to obtain a Residential Travel Information Pack template and the associated day travel vouchers required.

10. COMPLIANCE: PEDESTRIAN VISIBILITY SPLAYS

CONDITION: Prior to occupation of the dwelling 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 any obstruction 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 highway in the interest of highway safety.

11. COMPLIANCE: ACCESS WIDTH

CONDITION: Prior to occupation of the dwelling, the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.6 metres (equivalent to 5 low kerbs) and 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.

12. COMPLIANCE: PARKING PROVIDED AND RETAINED

CONDITION: The proposed dwelling shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, and sealed. The vehicle parking 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.

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

13. FURTHER APPROVAL: MEASURES TO IMPROVE SUSTAINABILITY OF DEVELOPMENT

CONDITION: Prior to the occupation of the dwellings hereby approved, a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall provide for:-

- Agreement of heating measures for each dwelling
- Agreement of scheme for waste reduction
- Water-butts per dwelling
- Solar panels for each dwelling

The scheme shall be fully implemented prior to the first occupancy of each unit it is associated with unless otherwise agreed in writing by the Local Planning Authority. The scheme shall be constructed and the measures provided and made available for use as may be agreed and thereafter shall be maintained.

REASON: To enhance the sustainability of the development through better use of water, energy and resources reduce harm to the environment and result in wider public benefit in accordance with the NPPF and Local Plan Policy.

14. COMPLIANCE: IN ACCORDANCE WITH ECOLOGICAL APPRAISAL

CONDITION: All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Skilled Ecology, May 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

REASON: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

15. FURTHER APPROVAL: BIODIVERSITY ENHANCEMENT STRATEGY

CONDITION: Prior to commencement, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

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

REASON: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

16. FURTHER APPROVAL: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

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

17. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF FENCE PD

CONDITION: Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of fences, walls or other enclosures, shall be erected forward of the front elevation of the dwelling hereby approved.

REASON: In the interests of visual amenity to retain a spacious appearance and in the interests of the quality of the development.

10.3 Informatives

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

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.

Biodiversity Informatives

As required by Condition 14, if any external lighting is to be proposed, the lighting scheme should be developed to minimise any impacts to bats. This should summarise the following measures will be implemented:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm White lights should be used at <3000k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
- Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

11. Additional Considerations

Public Sector Equality Duty (PSED)

- 11.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 11.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 11.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 11.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 11.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.

- 11.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 11.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 11.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 11.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 11.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 11.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 11.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

12. Background Papers

- 12.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.