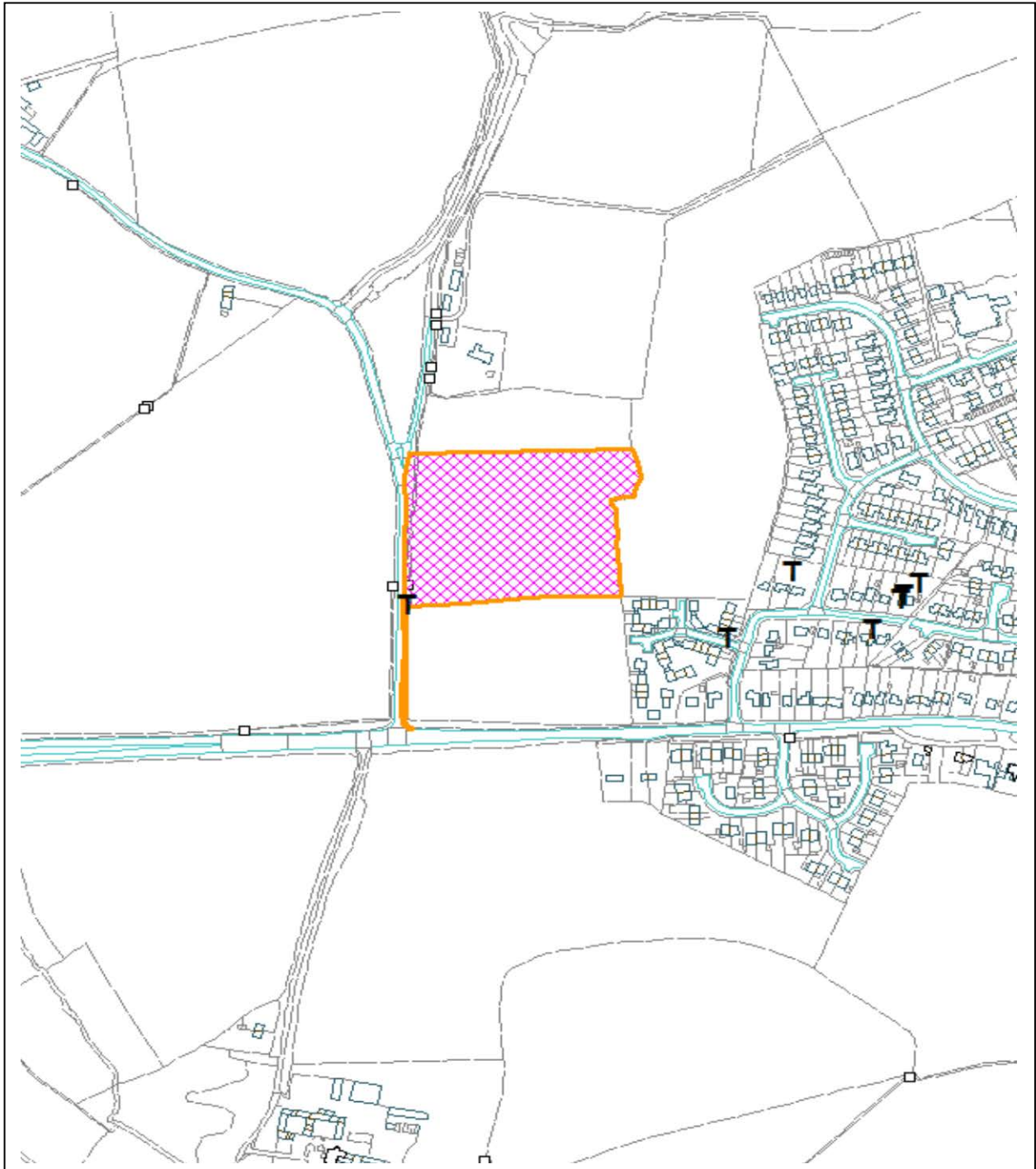


# PLANNING COMMITTEE

27 FEBRUARY 2018

## REPORT OF THE HEAD OF PLANNING

### A.1 PLANNING APPLICATION - 17/00927/DETAIL - LAND TO THE EAST OF TYE ROAD, ELMSTEAD, CO7 7BB



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<b>Application:</b>	17/00927/DETAIL	<b>Town / Parish:</b> Elmstead Market Parish Council
<b>Applicant:</b>	Mr J Hills - Hills Residential Ltd	
<b>Address:</b>	Land to The East of Tye Road Elmstead CO7 7BB	
<b>Development:</b>	Reserved matters application for construction of new access to serve housing development approved under 16/00219/OUT.	

## 1. Executive Summary

- 1.1 This application was deferred from Planning Committee on 29<sup>th</sup> November 2017 as the Committee considered that they did not have enough information from the Highways Authority to justify departing from their standard policy of a 2 metre wide footpath and reducing to 1.5 metres. It was requested that a site visit be arranged to enable Cllr. White, Cllr. Baker, Cllr. Everett and Planning Officers to meet with a representative from the Highways Authority. Furthermore, Committee requested the re-measurement of the entire width of the footpath to establish if it is the same width, as it was evident that existing hedgerows would be restrictive. The requested meeting took place on 10<sup>th</sup> January 2018.
- 1.2 Following the site visit, further information has been provided by Essex County Council Highways who reaffirm their position of no objection. The application is returned to the Planning Committee with a recommendation of approval. The report from 29<sup>th</sup> November 2017 is replicated below with any updates shown in bold.
- 1.3 This application **was originally** referred to the Planning Committee at the request of Cllr. F. Nicholls on the basis that it is considered the proposed footway is not safe or appropriate given the nature of the HGVs that use Tye Road.
- 1.4 Outline application 16/00219/OUT sought consent for the erection of up to 32 dwellings, land for a community facility and associated parking and infrastructure. This application was granted at appeal in April 2017, with all matters of detail reserved. This application seeks reserved matters approval for access, including a footpath along the western side of Tye Road. All other matters will be dealt with as part of future applications.
- 1.5 The site is situated to the east of Tye Road and the western edge of Elmstead. The application site is roughly rectangular in shape and measures 2.4 hectares. It is currently managed as an arable field and is bounded by a continuous mixed native hedgerow with individual mature trees.
- 1.6 As established through the granting at appeal of outline application 16/00219/OUT, the principle of residential development for up to 32 dwellings, land for a community facility and associated parking and infrastructure on this site is acceptable.
- 1.7 The detailed design of the access and proposed footpath results in no material harm to highway safety; provides adequate links to the existing village and would not materially harm the character of the area. On this basis the application is recommended for approval.

**Recommendation:** Approve

**Conditions:**

1. In accordance with approved plans
2. Prior to occupation the highway improvement works shall be provided entirely at the Developer's expense.

**2. Planning Policy**

National Policy

National Planning Policy Framework (2012)

National Planning Practice Guidance (2014)

Local Policy

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM1 Access for All

COM6 Provision of Recreational Open Space for New Residential Development

COM26 Contributions to Education Provision

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

EN4 Protection of the Best and Most Versatile Agricultural Land

EN6 Biodiversity

EN6A Protected Species

EN6B Habitat Creation

EN13 Sustainable Drainage Systems

TR1A Development Affecting Highways

TR1 Transport Assessment

TR3A Provision for Walking

TR5 Provision for Cycling

TR6 Provision for Public Transport Use

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16<sup>th</sup> June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. As this plan is yet to be examined, its policies cannot carry the full weight of adopted policy. However, because the plan has

reached publication stage its policies can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

### **3. Relevant Planning History**

16/00219/OUT	Outline planning application for residential development of up to 32 dwellings, land for a community facility and associated parking and infrastructure.	Refused	27.07.2016
16/01950/OUT	Outline planning application for residential development of up to 32 dwellings and associated open space, car parking and infrastructure.	Withdrawn	26.04.2017
17/00927/DETAIL	Reserved matters application for construction of new access to serve housing development approved under 16/00219/OUT.	Current	

### **4. Consultations**

Building Control and Access Officer	No comments.
Environmental Protection	Pollution and Environmental Control have no comments to make on this application.
Regeneration	The Regeneration Team have no specific comments to make on this application.
Tree & Landscape Officer	<p>The information provided by the applicant adequately demonstrates that the creation of the new vehicular and pedestrian access and egress points to the application site from Tye Road ' in particular the establishment of sight lines - can be created without causing harm to the trees adjacent to the eastern side of Tye Road currently afforded protection by TPO/16/04.</p> <p>It will result in the removal of part of part of the Blackthorn Hedgerow (G6) although this will not have a significant detrimental impact on the character of Tye Road or surrounding area.</p> <p>The creation of the footway on the western side on Tye Road would result in the removal of Hawthorn hedgerow on the western side of Tye Road (H8) which has been dealt with by the planning inspector dealing with the appeal relating outline application to develop the land. Ownership details will need to be addressed before any works to the hedgerow commence. It is understood that the land on which the hedgerow is situated may be privately owned and form part of a countryside stewardship agreement.</p> <p>With regard to the proposed access road and pedestrian link to the</p>

adjacent eastern development this will result in the removal of a small part of the group on mixed species (G20). This issue was recognised at the outline planning stage and was not considered to have a detrimental impact on the integrity of the group of trees or the appearance of the area.

Anglian Water Services Ltd

As the reserved matters application related to access and not drainage, Anglian Water have no further comment to make.

ECC Highways Dept  
ORIGINAL COMMENTS

The Highway Authority has previously commented regarding visibility splays, parking and turning facilities, surfacing, transport information marketing packs, and internal road layouts, and a pedestrian/cycle link through to adjacent plots, and does not wish to add anything to this.

In principle the proposed access is acceptable but the final arrangement will be agreed during the detailed design stage of an appropriate legal agreement.

During the outline application concerns were raised regarding the deliverability of the footway from the site to Colchester Road as it appears to encroach onto land to which the applicant has no control. In this event, the applicant may find any permission grant cannot be implemented.

ECC Highways Dept  
AMENDED COMMENTS

Further to recent correspondence additional discussions have been undertaken regarding the highway boundary and the ability to provide the footway and highway infrastructure improvements. This Authority has assessed the highway and transportation impact of the proposal and does not wish to raise an objection subject to the following:

Prior to occupation the highway improvement works as shown on in-principle drawing number S161/216 Rev. C shall be provided entirely at the Developer's expense.

Reason: To make adequate provision within the highway for the additional pedestrian and vehicular traffic generated within the highway as a result of the proposed development.

Note: This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 278 of the Highways Act, 1980.

Highway Works - All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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](mailto:development.management@essexhighways.org) or by post to:

SMO1 ' Essex Highways, Colchester Highways Depot, 653, The Crescent, Colchester Business Park, Colchester CO49YQ

Cost of Works - 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.

## **5. Representations**

5.1 Elmstead Parish Council object to the application for the following reasons:

- The proposed footway along Tye Road on the west side has been reduced from a width of 1.8 metres to 1.5 metres. The current standard width for a new pathway is 2 metres, so this is significantly narrower. It is understood from Essex Highways that this has been agreed on the basis that there will not be much pedestrian use. However, the HGV type of traffic which uses this road should indicate a wider footway, the volume of HGVs is set to increase with the applications listed below and it is already the case that as it is a rural farming area there is a high volume of heavy and wide vehicles using the road.
- Approval has been given for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings at Elmstead Hall (ESS/24/15/TEN). All vehicles will be accessing and exiting this reservoir site via Tye Road. Planning condition 20 limits HGV movements to 80 per day (Monday to Saturday), although the transport statement for the application estimated that the project would generate around 100 HGV movements per day.
- A planning application was previously submitted for the creation of an agricultural reservoir at the Allen's Farm Site, west of Elmstead Hall, which was completed in 1999. This development took vehicular access from Tye Road at a purpose built large access, designed to accommodate four-axle HGV tipper vehicles to and from the site. The section of Tye Road between this access and the A133 to the south was also widened as a result of the previous development to accommodate HGV two way movements.
- Item 4.4 of the transport statement for ESS/24/15/TEN goes on to say 'as requested by the LHA at the time Allen's Reservoir was approved, the section of Tye Road from the site access to the A133 was locally widened to accommodate the two way movements of HGV traffic to and from the site. This section of Tye Road is therefore adequate to allow HGV traffic to pass between the site access and the A133 without further modification.'
- There is an additional modified application in process for the erection of a second bio-gas plant comprising anaerobic digester, cogeneration unit, grid entry unit and digestate store to replace previous approval 15/01679/FUL at Allen's Farm. The construction of the plant is likely to take 9 months and will generate additional traffic along Tye Road, and on an ongoing basis the application includes the importation of feedstock for the plant with a predicted 6 movements a day. This application also refers to the fact that Tye Road was widened in the past to accommodate two way movement of HGV traffic.
- As Tye Road was previously widened at the request of Essex Highways for the two way movement of HGVs for Allen's reservoir, and as a new reservoir has been approved, Elmstead Parish Council believes that the width of the road must definitely not be reduced, to ensure two large vehicles can pass safely. However, although it is appreciated that the footway has been reduced in width in order to maintain a full width roadway there is extreme concern regarding pedestrians using this narrow footway in view of the amount of heavy traffic using the road and do not feel this is an appropriate or safe solution.

5.2 In addition to the objection from the Parish Council, one letter of objection has been received which raises the following concerns:

- Access onto Tye Road will increase potential for accidents, traffic jams; Tye Road is not wide enough for a footway.
- The proposed development is outside the village envelope; this together with the prospect of a large development on the east side of Colchester will result in Elmstead being merged with Colchester and losing its identity.

## **6. Assessment**

The main planning considerations are:

- Site Context
- Proposal
- Highway Safety
- Appearance/Visual Amenity

### Site Context

- 6.1 The site is situated to the east of Tye Road and the western edge of Elmstead. The application site is roughly rectangular in shape and measures 2.4 hectares. It is currently managed as an arable field and is bounded by a continuous mixed native hedgerow with individual mature trees.
- 6.2 To the north of the site is a detached residential property; to the east of the site is a development site to the north of Meadow Close which was subject to an outline planning permission (14/01238/OUT) for 20 dwellings which was granted. To the south of the site lies an agricultural field beyond which is Colchester Road. Tye Road forms the western boundary of the site.

### Proposal

- 6.3 The current application seeks approval of the reserved matter of access only, relating to outline planning permission 16/00219/OUT for the erection of 32 dwellings, land for a community facility and associated parking and infrastructure.
- 6.4 This application seeks permission for a single vehicular access point from Tye Road with a 10m radius. Where it meets Tye Road the proposed access measures 25 metres in width but then narrows to 9.5 metres in width 7.5 metres into the site.
- 6.5 A pedestrian access point and an uncontrolled pedestrian crossing are proposed towards the southern boundary of the site, which has a width of 2.5 metres.
- 6.6 A footpath is proposed on the western side of Tye Road from the southern boundary of the site to the junction with Colchester Road. Originally the proposed footpath measured 1.8 metres in width and result in the loss of some hedgerow. Following concerns that this could not be achieved without relying on land outside the control of the applicant or Essex County Council Highways, the width of the footpath has been amended to 1.5 metres in width and the hedgerow is to be retained.
- 6.7 A S106 legal agreement was secured at outline planning permission stage requiring a financial contribution towards primary school education; 25% on site affordable housing providing and the provision of on-site public open space. This legal agreement and all conditions imposed by the Inspector at outline stage will still apply.

### Highway Safety



- 6.8 At the stage of the outline application the indicative plan submitted indicated a footpath along the eastern side of Tye Road. The Council's reason for refusal states that it had not been demonstrated that pedestrian links to local facilities could be provided without harm to the character of the area resulting from the removal of significant trees and hedgerow.
- 6.9 However, as part of the appeal process a plan was submitted showing a footpath to the west of Tye Road. The Inspector considered as the application was submitted in outline with all matters reserved for future consideration, the revised details are indicative only and do not therefore materially alter the proposed development and therefore took this revision into account when determining the appeal.
- 6.10 During this current application the width of the proposed footpath was reduced to 1.5 metres to provide certainty that it could be achieved without relying on land outside the control of the applicant or Essex County Council Highways.
- 6.11 **The 1.5 metre width footpath is below the recommended width of a footpath as set out in The Manual for Streets and The Essex Design Guide. Paragraph 6.3.22 of The Manual for Streets states that: 'there is no maximum width for footways. In lightly used streets (such as those with a purely residential function), the minimum unobstructed width for pedestrians should generally be 2m. Additional width should be considered between the footway and a heavily used carriageway, or adjacent to gathering places, such as schools and shops'. Page 122 of the Essex Design Guides sets out the minimum carriageway width and footway requirements for different types of roads and when referring to footpath it states they should be 2 metres wide. However, these documents are not legislative duty, but guidance only. Paragraph 6.3.23 of The Manual for Streets states that 'footway widths can be varied between different streets to take account of pedestrian volumes and composition' and page 117 of the Essex Design Guide states the width of footways to roads 'will vary according to the type of road, but normally is sufficient to allow two people to pass'. It is clear from these documents that there whilst the recommended width of a footpath is 2 metres that there is some flexibility.**
- 6.12 **Essex County Council Highways have also considered the frequency of use of the proposed footpath using the TRICS database, which is the natural system of trip generation analysis. This shows that both morning and evening peak usage will generate an average of 5.5 pedestrians per peak hour. Bearing in mind there are public right of way routes which also lead to the village and therefore some of these pedestrians will not use the footpath, the development is considered unlikely to generate more than 4 pedestrian movements in a peak hour.**
- 6.13 **Following the site meeting the Highway Officer has re-examined the collision date website and there have been no collisions recorded in Tye Road.**
- 6.14 **Essex County Council Highways have been consulted on the application and raise no objection to the application. Following the site visit further information has been provided by Essex County Council and they have confirmed that they retain their position of no objection and consider that the new footway, albeit of a lesser width than normal standards, will not only provide a suitable refuge for the very limited number of new pedestrians, but will also be of benefit to those existing pedestrians who already use Tye Road. Therefore whilst the concerns of the Parish Council are recognised, it is considered that without an objection from Highways or evidence to support the views of the Parish Council that a reason for refusal on highway grounds could be justified or successfully defended on appeal.**

#### Visual Amenity/Appearance

- 6.15 The Inspector considered that the removal of the hedgerow on the west side of Tye Road, which is no longer proposed, as the scheme has been amended and was satisfied that its

loss would not unduly harm the character or appearance of the area. The Inspector was satisfied that it was demonstrated that adequate footpath links to the village could be provided and that such details could be suitably dealt with a part of a future reserved matters application.

- 6.16 The submitted plans show the existing hedgerow to be retained and at the site visits Members measured the width of the carriageway for themselves. Given the location of the hedgerow it will be a constraint on the development. However at outline stage the Inspector was satisfied that its loss would not unduly harm the character or appearance of the area. It is noted that the hedgerow is not within the applicants or Highways ownership but this is not a material planning consideration, as Essex County Council Highways would have rights to carry out any works on highway land to whatever depth is required.**
- 6.17 When considering the principle of development on the site the Inspector found that whilst the development would result in limited harm to the character of the area, this harm would not significantly and demonstrably outweigh the benefits of the scheme. Given that consent has been given for development of the site and that the character of area will change to become more urbanised and it is therefore considered that the proposed footpath would not result in any greater harm.

Background Papers

None