



Phase 2

Planning Statement

Incorporating Design and Access Statement

Full Planning Application for nine dwellings, landscaping and associated infrastructure

Land adjacent to Grange Farm Bungalow, Elmstead Market

On Behalf of

Hills Building Group

February 2021

Our Ref: C21005

Phase 2 PLANNING & DEVELOPMENT LIMITED

Quality Assurance

Site Name: Land adjacent to Grange Farm Bungalow, Elmstead Market

Client Name: Hills Building Group

Type of Report: Planning Statement

Author	Initials	Date
Nicole Quail BSc(Hons) Msc EIA/Projects Coordinator	NQ	February 2021

Reviewed	Initials	Date
Emma Walker BSc(Hons) MA MRTPI Associate	EW	February 2021



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20/00040/REFUSE)

Appendix 3 – Officer’s report to committee (application ref: 20/00239/FUL)

1. Introduction

1.1 This Planning Statement has been prepared by Phase 2 Planning and Development Ltd on behalf of Hills Building Group, hereafter referred to as the applicant, in support of a full planning application for nine dwellings.

1.2 The description of development is as follows:

‘Full planning application for nine dwellings, parking, landscaping and associated infrastructure’

1.3 The site has outline planning permission for an office development of up to 929sqm B1 office with associated car-parking, infrastructure and landscaping (18/01858/OUT). Given the large, consented extension to the Lanswood Park Development (LPA ref: 20/00238/FUL), and the consequential requirement for a large proportion of the associated residential use to that permission being accessed via this site’s road, the current commercial use for this site becomes increasing difficult.

1.4 Furthermore, the changing Covid situation that is affecting current and future demand, as well as the large amount of additional supply, means this site becomes less viable. As such, the applicant is seeking an alternative more appropriate and sympathetic residential use.

Purpose and Structure of this Report

1.5 The purpose of this report is to draw together the main planning issues in the consideration of this proposal.

Planning Application Documents

1.6 The submitted plans forming part of this application submission comprise:

- Site Location Plan (ref: BBF/RES/01/-) - Hills Building Group;
- Site Context Plan (ref: BBF/RES/02) – Hills Building Group;
- Site Plan (ref: BBF/RES/03/V1) – Hills Building Group;
- House Type 6 Elevations (ref: BBF/RES/04/-) - Hills Building Group;
- House Type 6 Floorplans (ref: BBF/RES/05/-) - Hills Building Group;
- House Type 11 Floorplans and Elevations (ref: BBF/RES/06/v1) - Hills Building Group;
- House Type 3 Floorplans and Elevations (ref: BBF/RES/07/-) - Hills Building Group; and
- Landscape Strategy (Drawing Number 21.5137.01) - Andrew Hastings Landscape Consultants Ltd.

1.7 In addition, a number of supporting documents have been prepared in support of this planning application which comprise the following:

1. This Planning Statement, which includes a section on design and access – Phase 2 Planning – February 2021.
2. Arboricultural Impact Assessment and Preliminary Method Statements - Tree Planning solutions – January 2021.
3. Preliminary Ecological Assessment – Eco-Planning UK - January 2021.

1.8 This Planning Statement sets out the main planning considerations in the determination of this application. Section 2 describes the detail of the site and surroundings and section 3 summarises the planning history for the application site and surrounding land. Section 4 details the proposed development and section 5 covers matters of design and access and section 6 sets out the relevant local and national planning policy context. Section 7 sets out the detailed planning considerations and section 8 provides a brief overview and conclusions relevant to the application.

2. Site and Surroundings

- 2.1 The area of land subject to this planning application relates to land northwest of Grange Farm Bungalow, Elmstead. The extent of the application site is as shown by the land edged red on the Site Location Plan submitted in support of this application. The site measures 0.48ha.
- 2.2 The application site is situated on the south side of Clacton Road (A133) around 1.2km to the south-east of Elmstead Market within the district of Tendring. The site lies approximately 9km to the east of Colchester, a strategic urban settlement with a population of around 120,000. The site has good accessibility to the A120, which provides links to the A12 to the west and Harwich in the east.
- 2.3 The village of Elmstead Market is identified as a Rural Service Centre and has a range of services and facilities to serve the local population including a primary school, a petrol filling station, a community centre, shops, doctors, café/restaurant, hairdressers etc.
- 2.4 As set out in chapter 1, the site has outline planning permission for an office development (planning application reference 18/01858OUT).
- 2.5 Immediately adjoining the site lies an existing substantial bungalow, which has planning permission for two alternative residential schemes: one for two dwellings and one for nine dwellings (as detailed within the next section of this report), which are yet to be constructed.
- 2.6 Further to the southeast is a cluster of recently built residential development to the south east, permitted under planning refs: 17/01617/OUT and 18/00004/DETAIL for two dwellings immediately adjacent to the bungalow and permission for five dwellings (ref: 16/00724/OUT & 16/02004/DETAIL) further south.
- 2.7 Approximately 300 metres to the north-west of the site, towards Elmstead Market, is the entrance to Lanswood Park, which is a new business park located on the site of a former nursery and garden centre. It has been identified in the emerging Local Plan as a suitable location for further office development. A hybrid planning application has been recently approved for land between Lanswood Park and the application site for 10,000sqm of commercial space adjoining the business park, together with 85 houses in the south. This development will wrap around the application site and the dwellings to the east. Once built, this consented development will significantly change the context of the application site, which will be enclosed by development on three sides. This is shown by the Site Context Plan (ref: BBF/RES/02) which accompanies this application.
- 2.8 Section 3 of this report provides details in relation to these recent permissions.
- 2.9 The application site is located 1.2km to the centre of Elmstead Market and there is a continuous footway provided to the north of the site into the centre of the village. In addition, there is a regular bus service running through the village connecting with nearby Clacton,

Colchester and Wivenhoe and other outlying villages, with a bus stop located around 400m (5 minute walking distance) from the site.

- 2.10 The application site is accessible from Elmstead Market by foot falling within the walking catchment of 2km (25 minutes) for commuter journeys. An Inspector commented in relation to a previous residential proposal on land adjoining the application site (ref: APP/P1560/W/15/3028070); (details set out in section 3) that the proposal was “close enough to the wide range of services provided in Elmstead Market to be reasonably accessible by foot.” A copy of the appeal decision is provided at Appendix 1.
- 2.11 The site is not covered by any statutory designations. The Beth Chatto Gardens a Registered Park and Garden (Grade II) are located 213m to the west of the site.
- 2.12 The site is in flood zone 1 (at low probability of flooding) and is at very low risk of surface water flood risk.
- 2.13 The site itself comprises a parcel of land with bare ground. It has negligible vegetation and has no conservation or biodiversity value. It is bordered by recently planted laurel hedge together with a small number of trees. The site is within the 13km ‘Zone of Influence’ for the Colne Estuary Ramsar and SPA set out in the Essex Coast Recreational disturbance and Mitigation Strategy (RAMS) Supplementary Planning Document.

3. Planning History

Planning History in relation to the Site

3.1 The site has consent for an office development under the applications set out in Table 3.1.

Planning Application Reference	Details	Decision	Date
18/01858/OUT	Proposed office development of up to 929sqm B1 office with associated car parking, infrastructure and landscaping	Approved	15/01/2019
19/00432/DETAIL	Reserved Matters application for proposed office development following Outline approval on planning application 18/01858/OUT.	Approved	09/05/2019
19/01140/DETAIL	Reserved Matters application for proposed office development following Outline approval on planning application 18/01858/OUT.	Approved	18/11/2019

Table 3.1: Summary of recent planning history at the application site.

Planning History in the Surrounding Area

3.2 There has been a key recent decision immediately adjacent that once built will have a considerable impact on the context of the application site. This relates to the recent permission for development of an eight hectare site located northwest and southwest of the application site, wrapping around the application site and also the cluster of development to the east. The access for the residential element of the site runs between the current application site and the cluster of development to the south-east (Grange Farm Close). The officer's report to committee (**Appendix 3**) states that the site is "a sustainable location for development and the significant economic benefits of the proposal in providing up to 10,000 square metres of employment floor space, estimated to provide around 600 jobs, are considered to outweigh the modest landscape harm in this context of mixed residential and commercial development."

Planning Application Reference	Details	Decision	Date
20/00239/FUL	Hybrid planning application 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.	Approved	27/01/2021

Table 3.2: Summary of Key Recent Planning Application surrounding the application site

- 3.3 Land within the adjoining cluster of development has been subject to a number of planning applications over the years. The most relevant applications are listed below:

Planning Application Reference	Location	Details	Decision	Date
07/01076/FUL	Blue Barn Farm	Erection of replacement building to accommodate business units within Use Classes B1, B2 and B8, conversion of farm shop to ancillary storage, erection of cycle and refuse store, and construction of vehicular access and car parking areas.	Approved	01/02/2008
15/01874/OUT	Blue Barn Farm	Erection of seven detached dwellings and associated garaging served by new vehicular and pedestrian access.	Refused	16/02/2016
15/00146/OUT	Blue Barn Farm	Erection of three detached dwellings served by new vehicular and pedestrian access.	Refused and allowed on appeal (Copy of appeal decision at Appendix 1 – ref: APP/P1560/W/15/3028070)	28/09/2015
16/00724/OUT	Blue Barn Farm	Erection of five detached dwellings and associated garaging served by the new vehicular and pedestrian access (resubmission of 15/01874/OUT).	Approved	18/08/2016
16/02004/DETAIL	Blue Barn Farm	Reserved matters application following 16/00724/OUT.	Approved	06/02/2017

17/01617/OUT	Former gardens of Grange Farm Bungalow	Erection of two detached dwellings and associated garaging.	Approved	20/11/2017
18/0004/DETAIL	Former gardens of Grange Farm Bungalow	Reserved matters application following 17/01617/OUT	Approved	27/02/2018
18/00644/OUT	Grange Farm Bungalow	Demolition of existing bungalow and erection of up to nine dwellings and associated garaging.	Refused and dismissed at appeal	27/06/2018
19/01596/FUL	Grange Farm Bungalow	Demolition of existing bungalow and erection of two dwellings and associated garaging.	Refused and allowed on appeal APP/P1560/W/20/3248847 20/00040/REFUSE (Copy provided at Appendix 2)	20/10/2019
19/01031/OUT	Grange Farm Bungalow	Demolition of existing bungalow and erection of up to nine dwellings and associated garaging.	Refused and allowed on appeal APP/P1560/W/20/3248847 20/00041/REFUSE (Copy provided at Appendix 2)	14/08/2020
20/01609/DETAIL	Grange Farm Bungalow	Reserved matters application for 9 dwellings further to outline application 19/01031/OUT approved under appeal reference APP/P1560/W/20/3248849.	Approved	26/01/2021

Table 3.3: Summary of Other Recent Planning Applications surrounding the application site

4. The Proposed Development

- 4.1 This planning application seeks full planning permission for nine residential dwellings. The description of development reads as follows:

'Full Planning Application for nine dwellings, parking, landscaping and associated infrastructure'.

- 4.2 The proposed development represents a small extension to the cluster of dwellings to the south-east of the application site. Once the larger development to the south of Lanswood Park is implemented, it will be surrounded by development on three sides.
- 4.3 The proposed development would comprise a low-density development of approximately 19 dwellings per hectare which will complement the existing and consented dwellings to the south-east of the application site.
- 4.4 The precise location, size and appearance of the dwellings is as indicated on the site plan, floor plans and elevations.
- 4.5 The site plan shows that the site is able to comfortably provide nine 3-4 bedroom detached dwellings to be set back from the road and to provide the proposed dwellings with sufficient car parking and a good level of private amenity space.
- 4.6 The site plan plans show the following dwelling mix:

Dwelling Size	Total
3 bed house	3
4 bed house	6
Total	9

Table 4.1: Dwelling Mix

- 4.7 Access to the site would be from the existing access road to the south of the site.
- 4.8 The plans show that the development can be designed so as not to have any significant impact upon the amenities enjoyed by the occupants of the neighbouring properties.
- 4.9 Further details in relation to design and access are provided within the next section of this report.

5. Design and Access

- 5.1 This section of the report covers the matters that would typically be covered in a Design and Access Statement.

Use

- 5.2 It is proposed that the development will be used for Class C3 residential dwelling houses, which complements the cluster of dwellings to the south east and the consented dwellings to the southwest of the site.

Amount

- 5.3 The development will be limited to nine dwelling houses at a density of up to 19 dwellings per hectare. This amount of accommodation can be comfortably accommodated within the application site, along with adequate parking and landscaping, whilst setting back the dwellings from Clacton Road.

Layout

- 5.4 the layout of the proposed development has been carefully designed to provide active frontages to Clacton Road and Grange Farm Close. Each dwelling is set within a plot that is capable of accommodating off street car parking, a private garage and a private rear garden.

Scale

- 5.5 The proposed dwellings are modest in terms of their overall scale and are all two storeys in height, which is in keeping with the development in the area. The dwellings have been designed to ensure that they do not form a dominant feature within the wider landscape.

Landscaping

- 5.6 It is proposed that soft and hard landscaping will be secured by condition. A soft landscaping plan has been prepared by Andrew Hastings Landscape Consultants Ltd and is submitted with the application (Drawing Number 21.5137.01). The existing oak tree on the north-eastern boundary would be retained within the development. Replacement would be replaced at a ratio of at least 2 trees to every one removed. The development will make best use of soft landscaping to screen and soften the visual impact of the proposed built form. A recently planted laurel hedge along the eastern boundary will assist in softening the development when viewed from the east.

Appearance

- 5.7 The development has been carefully designed to ensure that it is appropriate in its context. It is proposed that building materials will be used that complement the existing dwellings to the south east and reflect traditional and local rural vernacular.

Access

- 5.8 The site is well served in terms of vehicular access, with the development being accessed from a newly constructed access road called 'Grange Farm Close', which forms a priority junction with Clacton Road to the north east of the proposed building. There is a pedestrian footway on the north-eastern side of Clacton Road connecting the site with Elmstead Market to the north-west and Frating to the south-east. In addition, there is a dropped kerb pedestrian refuge crossing point on Clacton Road, just south of the two bus stops providing access to both northbound and southbound services.
- 5.9 With regard to inclusive access, the building will be designed in accordance with Part M(4)1 of the Building Regulations to provide level access to the site.
- 5.10 For servicing, the development layout will ensure that the swept path assessment of service vehicles can be accommodated, including 11m refuse vehicles.

6. Planning Policy

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 6.2 The statutory development plan for Tendring comprises saved Policies of the adopted 2007 Local Plan, together with the recently adopted Tendring District Local Plan 2013-2033 and Beyond Section 1 North Essex Authorities' Shared Strategic Section 1 Plan adopted January 2021.
- 6.3 Government planning policy is set out in the National Planning Policy Framework (NPPF) (2019), which forms a significant material consideration in the determination of this planning application. The NPPF stresses the importance of up-to-date Local Plans in decision making. The presumption in favour of sustainable development makes clear that where the development plan is absent, silent or out of date, permission should be granted unless the adverse impacts of development will significantly and demonstrably outweigh the benefits, or specific policies in the NPPF indicate otherwise.
- 6.4 In terms of assessing relevant planning policies applicable to the application site, this chapter covers the following:
- Tendring Adopted Local Plan (Saved Policies);
 - Emerging Tendring District Local Plan 2013-2033 and Beyond
 - Section 1 North Essex Authorities' Shared Strategic Section 1 Plan - Adopted January 2021.
 - Section 2 Local Plan - currently subject to an examination by Inspectors appointed by the Secretary of State for Housing, Communities and Local Government.
 - National Planning Policy Framework (NPPF); and
 - Tendering Housing Land Supply Position.

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

- 6.5 Alongside Braintree District Council and Colchester Borough Council (North Essex Authorities), TDC have been working together on the strategic cross boundary issues for North Essex. On 9 October 2017 the North Essex Authorities submitted their Local Plans and accompanying documents to the Planning Inspectorate. Due to strategic cross-boundary policies and allocations, Section 1 of the Local Plan, which includes policies on strategic cross boundary issues including infrastructure and housing numbers for these authorities is identical and was considered through a joint examination in public.

- 6.6 In June 2018, the Local Plan Inspector found the Plan to be unsound. As such, further work was undertaken. In December 2020, the Inspector found the plan to be sound subject to the Inspectors main modifications. These modifications have been agreed by TDC, and TDC formally adopted the Tendring District Local Plan 2013-2033 and Beyond: North Essex Authorities' Shared Strategic Section 1 Plan on 26th January 2021. The adoption of this Plan has the effect of replacing, a number of the strategic policies contained within the Tendring District Local Plan 2007.
- 6.7 Policy SP1 of the North Essex Authorities' Shared Strategic Section 1 Plan sets out that the Council will take a positive approach that reflects 'presumption in favour of sustainable development' in accordance with the NPPF.
- 6.8 Policy SP 2 relates to Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and states contributions will be secured from development towards mitigation measures in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS).
- 6.9 Policy SP 3 sets out the Spatial Strategy for North Essex and states that existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period. 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.
- 6.10 Policy SP 4 relates to meeting Housing Needs. It sets out an annual housing requirement of 550 homes per annum (11,000 for period 2013 -2033).
- 6.11 Policy SP 5 relates to provision of employment land and sets out a requirement of between 12 and 20 hectares of employment land in Tendring District.
- 6.12 Policy SP 7 relates to Place Shaping Principles and sets out that all new development must meet high standards of urban and architectural design.

[Tendring Adopted Local Plan, 2007 \(Saved Policies\)](#)

- 6.13 Strategic Policies of the 2007 Local Plan (QL1, HG1, QL4, QL8, QL9, QL10, and partially) have been replaced by policies set out within the adopted Section 1 Local Plan 2013-2033. However, until Section 2 of the emerging Local Plan is adopted elements of the 2007 adopted Local Plan will remain in force.
- 6.14 In March 2012 the government published the first version of the National Planning Policy Framework (NPPF) and as a result a number of the saved policies in the adopted 2007 Tendring District Local Plan are considered out-of-date. The following policies are of relevance to the proposals.

- 6.15 Policy QL2 relates to promoting transport choice and encourages all new development to be located and designed to avoid reliance on the use of the private car and promote travel choice.
- 6.16 Policy HG4 of the adopted Local Plan states that affordable housing should be provided at a rate of 40% in settlements with a population of 3,000 or fewer, on sites that have potential for 5 or more dwellings or over 0.5 hectares in size. However this policy is out of date as confirmed by the Inspector in the appeal ref: PP/P1560/W/20/3248849) on application 19/01031/OUT.
- 6.17 Policies EN1 seeks to protect the landscape character.
- 6.18 Policies EN6: Biodiversity, EN6a: Protected Species, EN6b: Habitat Creation, EN6a: Protected Species and Protection of International Sites European Sites and RAMSAR Sites seek to protect biodiversity, protected species and protected species and seek habitat creation.
- 6.19 TR7: Vehicle Parking at New Development requires adherence to Essex Parking Standards.

[Tendring District Local Plan 2013-2033 and Beyond Section 2](#)

- 6.20 The Publication Draft Local Plan (2017) was submitted to the Planning Inspectorate on 9 October 2017 along with minor modifications made post consultation.
- 6.21 The Section 2 Local Plan is currently subject to an examination and the Stage 2 hearing sessions are due to commence on Tuesday 23rd February 2021. Key policy is set out below:
- Policy SPL1 identifies Elmstead Market as a Rural Service Centre.
 - Policy SPL2 relates to settlement boundaries and seeks to encourage sustainable patterns of growth and carefully control urban sprawl.
 - Policy SPL3 relates to sustainable design and states that all new development should make a positive contribution to the quality of the local environment and protect or enhance local character.
 - Policy LP1 relates to housing delivery and sets out the requirement for a minimum of 11,000 (dwellings between 2013 and 2033).
 - Policy LP2 supports a mix of dwelling size, type and tenure, with the Policy stating that the Council will support the development of accommodation aimed at meeting the future needs of older and disabled residents as well as family housing.
 - Policy LP 3 requires an 'appropriate density' having regard to factors such as accessibility, character of the area and on-site infrastructure requirements.

- Policy LP4 relates to housing layout and sets expectations for developments relating to matters including green infrastructure, surveillance, road layouts, off-street parking, densities, internal space standards and all other requirements of the Local Plan.
- Policy LP5 of the draft Plan requires affordable housing for developments involving the creation of 11 or more homes.
- Policy PP7 relates to employment allocations and identifies allocations of between 19.83ha and 21.8ha of employment land.

- 6.22 The Council has prepared Topic Paper 4: Employment Land (October 2020) to inform the Examination of Part 2 of the Local Plan. This document identifies that Section 1 of the Plan made provision for around 20 hectares of employment land, however “it did not provide a full account of land available for employment use, which actually represents close to 37 hectares – a significant over-allocation against projected requirements which provides flexibility and choice across different parts of the district”. It goes on to state that “the Council can identify more than sufficient land to meet the projected needs for employment within the plan period to 2033”.

Tendring Strategic Housing Land Availability Assessment (SHLAA) MAY 2020

- 6.23 A SHLAA was updated in May 2020 to reflect latest available information on housing developments to 1st April 2020. The assessment identifies that through a combination of dwellings completed since 2013, large sites with planning permission for housing development, small sites and windfall sites and sites specifically allocated in the emerging Local Plan, the objectively assessed requirement to deliver at least 11,000 homes between 2013 and 2033 (550 dwellings per annum) (as set out in the recently adopted Local Plan) can be met, however it recognises that the long term impact of “the COVID-19 (coronavirus) pandemic (and the anticipated economic downturn) on the delivery of new housing is, at the time of writing, difficult to predict”.

Tendring Employment Land Review (2019)

- 6.24 The Employment Land Review prepared by Hatch Regeneris and BE Group for the Council found that, looking at economic projections, the projected demand for additional employment land (over and above sites already in employment use) is forecast to be low for the Plan period (between 0 and 9 hectares), based on market trends and analysis of different scenarios.
- 6.25 It also identifies that sites with planning permission already account for over 27 hectares of future employment land and an additional 17 hectares are allocated in the emerging local Plan and are available on the open market. It identifies that this is already well in excess of the projected demand representing a supply of land almost three times greater than the demand.

National Planning Policy Framework (NPPF) (February 2019)

- 6.26 The revised National Planning Policy Framework (NPPF3) was published in February 2019 which sets out the Governments planning policies for England and how these are expected to be applied. The NPPF is of direct relevance to the proposal for residential redevelopment. At the heart of the NPPF is "a presumption in favour of sustainable development". The revised Framework replaces the previous National Planning Policy Frameworks that was published in March 2012 and July 2018.

Achieving sustainable development

- 6.27 Paragraphs 7 and 8 of the NPPF set out that the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF details that there are three dimensions to sustainable development which give rise to the need for the planning system to perform a number of roles:
- **Economic** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - **Social** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities health, social and cultural well-being; and
 - **Environmental** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change including moving to a low carbon economy.
- 6.28 The NPPF is clear that these roles should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. The NPPF adds that the planning system should play an active role in guiding development in sustainable solutions.

The presumption in favour of sustainable development

- 6.29 Paragraph 11 explains that plans and decisions should apply "a presumption in favour of sustainable development". For decision-taking this means

"approving development proposals that accord with an up-to-date development plan without delay; or

where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or ii. any

adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

Delivering a Sufficient Supply of Homes

- 6.30 A key objective of the NPPF is set out at paragraph 59 and remains the objective of "significantly boosting the supply of homes,". This requires "a sufficient amount and variety of land to come forward".
- 6.31 In relation to affordable housing Paragraph 63 outlines that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas.
- 6.32 Paragraph 67 requires the local planning authority to identify a five-year supply of specific and deliverable housing sites.

Identifying land for homes

- 6.33 Paragraph 68 adds to the objective of paragraph 59 of the NPPF providing further direction concerning the "variety of land to come forward" and states that:

"Small and medium-sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should:

c) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlement for homes.

Maintaining supply and delivery

- 6.34 Paragraph 73 once again reiterates the requirement of demonstrating a "minimum" of five years' worth of housing, which is clearly absent in the case of the application circumstances.

Rural housing

- 6.35 Paras 77 and 78 of the new NPPF set out that, in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. It adds that *"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby."*

Supporting a prosperous rural economy

- 6.36 Para 84 of NPPF makes clear that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent

to or beyond existing settlements, and in locations that are not well served by public transport. It adds that in these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. This paragraph further adds that the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

Promoting sustainable transport

- 6.37 Paragraph 103 of the NPPF sets out that *“The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, by limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health.”*
- 6.38 Importantly para 103 adds that *“opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.”*

Making effective use of land

- 6.39 Paragraphs 117 and 118 of the NPPF set out that *“Planning policies and decisions should promote effective use of land in meeting the need for homes and other uses while safeguarding and improving the environment and ensuring safe and healthy living conditions.”* Paragraph 118 expands on this further by highlighting that planning policies and decisions should encourage multiple benefits from both urban and rural land, including through taking opportunities to achieve net environmental gains.

Achieving well-designed places

- 6.40 Para 124 highlights that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve with a good design being a key aspect of sustainable development, creating better places in which to live and work and help make the development acceptable to communities. Para 127 sets out that development should be *“visually attractive as a result of good architecture, layout and appropriate and effective landscaping”* and be *“sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change”*
- 6.41 Paragraph 130 of the new NPPF makes clear that, where the design of a development accords with clear expectations in plan policies, the design should not be used by the decision-maker as a valid reason to object to the development. Paragraph 131 adds that, in determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

Meeting the challenge of climate change, flooding and coastal change

- 6.42 Paragraph 155 of the NPPF notes inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Paragraph 163 seeks to ensure that flood risk is not increased elsewhere.

Conserving and enhancing the natural environment

- 6.43 Paragraphs 170-183 of the NPPF are clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution.

Heritage

- 6.44 Paragraph 184 seeks to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future.
- 6.45 Paragraph 200 seeks opportunities for new development within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

Plan making

- 6.46 Paragraph 15 of the NPPF stipulates that the planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings"

Decision Taking

- 6.47 Paragraph 38 is relevant to the determination of planning applications, stating that local planning authorities should approach decision-taking in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. *"Decision-makers at every level should seek to approve applications for sustainable development where possible"*.

7. Consideration of the Main Issues

7.1 This section considers the following key planning issues, relevant to the proposals:

- (a) Principle of development;
- (b) Design & layout;
- (c) Landscape and visual impact;
- (d) Impact on trees;
- (e) Ecology;
- (f) Traffic impact, parking and highways;
- (g) Neighbour amenity;
- (h) Flood risk;
- (i) Affordable housing; and
- (j) Planning obligations.

(a) Principle of Development

- 7.2 The site is subject to an existing outline planning permission for an office up to 929sqm (Application: 18/01858/OUT). Hills have discussed the current market demand of the site with local agents, who have advised that the site is less viable as a result of both the Covid pandemic, and the recent approval at Lanswood Park and that prospective buyers would rather locate themselves on an existing commercial estate such as Lanswood. Furthermore, the Employment Land Review (2019) confirms that the supply of employment sites within the District exceeds the requirements (as detailed in section 5 of this report) and therefore the demand for commercial use of this site is considered to be limited.
- 7.3 Although the site is not located within the existing settlement boundary of Elmstead Market, the recently approved application (20/00239/FUL) directly to the north and west of the site is a material consideration. Its development, together with the existing cluster of dwellings to the south will lead to the application site being surrounded by dwellings on its north, west and southern boundaries. The application site is therefore considered wholly suitable for residential use. Given the layout proposed with commercial space to the north and residential to the south, with the latter using the same access (Grange Farm Close) as the application site, it is considered the proposed site represents a logical infill between the existing residential cluster and consented dwellings, with commercial space focussed at Lanswood Park, where employees can benefit from the wider on-site facilities.
- 7.4 The recently approved developments will effectively extend the settlement of Elmstead Market to the southeast to the application site.
- 7.5 The site is considered to be a sustainable location, with access to key services in Elmstead Market accessible safely by foot, and public transport available to nearby towns including Colchester as agreed by the Inspector in the appeal on the neighbouring site (ref: APP/P1560/W/15/3028070) who stated that *"the site was close enough to the wide range of services provided in Elmstead Market to be reasonably accessible by foot."* A copy of the

appeal decision is provided at **Appendix 1**.

- 7.6 When examining this scheme in terms of sustainability benefits, these are considered to be as follows:

Social Benefits:

- The development will provide up to nine dwellings, which would make an important contribution to boosting the supply of housing in the District and local area, providing much needed family housing.

Economic Benefits:

- Job construction during the construction phase.
- Additional spending in the local area through future economically active residents.

Environmental Benefits:

- Reduced impact on landscape and visual amenity compared to the consented office development;
- Reduced traffic movements compared to the consented office scheme; and
- Opportunity for biodiversity enhancements.

- 7.7 The development will not lead to tangible harm to local community facilities or services, nor would it harm the local environment.

- 7.8 The proposals result in the creation of up to nine additional dwellings in this sustainable location, performing well against the three tests for sustainability set out in paragraph 7 of the NPPF and according with Policy SP1 of the recently adopted North Essex Authorities' Shared Strategic Section 1 Plan. The site lies within close proximity of amenities, services and public transport routes. The proposals will make a positive contribution towards the Council's housing requirements and there are not considered to be any adverse impacts which would significantly or demonstrably outweigh the benefits provided by the scheme.

- 7.9 We submit that the application site infilling a parcel of land between the existing residential cluster and consented dwellings represents a logical location for new dwellings.

(b) Design & Layout

- 7.10 The proposals have been carefully designed to provide a residential development that will complement the surrounding area, including the consented development.

- 7.11 The detailed design of the dwellings proposes use of traditional materials to complement the existing cluster of residential development to the south in accordance with Policy SP7 within the recently adopted Section 1 Local Plan.

(c) Landscape and Visual Impact

- 7.12 The consented office application (Application (18/01858/OUT) was accompanied by an Assessment of Potential for Development identifying the likely impacts of the office development. This concluded that with landscaping in place the consented office development can sit comfortably within the existing and enhanced landscape framework and that the boundary planting will significantly reduce the visual impact of the development from Clacton Road in any event.
- 7.13 The reduced bulk would lead to a reduced landscape and visual impact compared to the consented office. Furthermore, the consented application to the north of the application site would urbanise the character of the area, and surround the site with built development, such that an additional nine dwellings would have a very limited additional effect, particularly given the existing boundary planting.

(d) Impact on Trees

- 7.14 An arboricultural impact assessment and preliminary method statement is submitted in support of this planning application. This report outlines that there are two category B trees (T1 - oak and T3 - Italian Alder), two category C trees (T2, T4 Italian Alder) and one category C hedge (Laurel) within or adjacent to the site. T1 will be retained as part of the proposals. The report concludes that the remaining tree features could be removed and replaced without causing a significant impact upon tree based visual amenity or reducing the overall character of the rural landscape. Replacement planting would favour native species providing increased habitat value in accordance with Policy SP7 of the recently adopted Section 1 North Essex Authorities' Shared Strategic Section 1 Plan.

(e) Ecology

- 7.15 A Preliminary Ecological Assessment has been undertaken by Eco-Planning UK Ltd. The assessment identified that the site is not located within a statutory or non-statutory conservation designation and has negligible vegetation and no conservation or biodiversity value having been stripped of its topsoil and compacted within the last 12 months.
- 7.16 There are registered Priority Habitat Deciduous Woodland to the south west of the site, and an Ancient Semi Natural Woodland - Captains Wood - to the south east of the survey site. The proposed development will not directly reduce the size or conservation status of these sites nor affect their management regimes.
- 7.17 The site is within a "zone of influence" for the Colne Estuary Site of Special Scientific Interest and RAMSAR/SPA Colne Estuary. However, the proposed development would not lead to any direct impacts on the conservation status nor affect its management regimes. However, the proposed development could have some minor recreational/disturbance impact alone or cumulatively with other new developments. A suitable contribution would be made in accordance with the Essex Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) and Policy SP 2 of the recently adopted Section 1 Local Plan, secured through Section 106. These contributions would fund strategic mitigation such that the

proposals would be unlikely to have a significant effect on the identified SPA or Ramsar either alone or in combination with other projects.

(f) Traffic Impact, Parking and Highways

- 7.18 Whilst outside the settlement boundary, the site is highly accessible within walking distance of Elmstead Market and has regular and frequent bus connections to nearby centres of Colchester and Clacton.
- 7.19 The Transport Statement (TS) prepared in support of the consented office development on the site (Application (18/01858/OUT) outlined that peak traffic flows for the office would be around 29 and 30 vehicle movements during the AM and PM peak hours respectively, which was considered not to have a material impact on the surrounding highway network.
- 7.20 The proposed development of up to nine dwellings would likely generate significantly less trips during the peak hour and would similarly therefore not have a material impact on the surrounding highway network.
- 7.21 The proposed use is considered to be more appropriate than the consented office development in terms of vehicle movements given that Grange Farm Close will serve predominantly residential development.
- 7.22 The indicative layout shows sufficient space would be available to meet required parking standards.
- 7.23 It is intended that the proposed dwellings would utilise the already constructed access road, which has good visibility onto Clacton Road.

(g) Neighbour Amenity

- 7.24 The site allows sufficient space to be provided between neighbouring properties as shown by the indicative site layout such that it will not have a detrimental impact on the amenity of occupants of neighbouring properties, and thus accord with Policy SP7 of the adopted North Essex Authorities' Shared Strategic Section 1 Plan.
- 7.25 Furthermore, the proposed development would likely have a benefit compared to the consented commercial use due to less traffic and associated noise and less impact on visual amenity.

(h) Flood Risk

- 7.26 The site falls within Flood Zone 1, an area with a low probability for flooding. It is envisaged that details in relation to sustainable drainage will be secured by condition.

(i) Affordable Housing

- 7.27 The application site is under 0.5 hectares in size and the application seeks permission for up to nine dwellings. As such, it does not constitute major development and consequently affordable housing is not required to be provided on the site.

(j) Planning Obligations

- 7.28 The applicant will be happy to discuss necessary planning obligations with the Council during the course of the planning application.

8. Conclusions

- 8.1 In summary, this planning application constitutes sustainable development, for which there is a presumption in favour as set out in paragraph 14 of the NPPF and in SP1 of the recently adopted North Essex Authorities' Shared Strategic Section 1 Plan.
- 8.2 The principle of developing the site has been established through the existing outline planning permission for an office (Application Reference: 18/01858/OUT). The offices are no longer required by the applicant and there is considered to be limited demand for this use, particularly given the consented office development in the immediate vicinity. As such permission is sought for residential use.
- 8.3 Whilst outside of the existing settlement boundary of Elmstead Market, the recently approved application (reference: 20/00239/FUL) directly to the north and west of the site, will effectively extend the settlement of Elmstead Market to the south and lead to the site being surrounded by development on its north, west and southern boundaries.
- 8.4 The extension to Lanswood Park will result in a sizeable office development that is served from one principal access, some 400m from the application site. Although adjacent to the consented commercial development, the application site is divorced from the extended office development. It will be accessed from Grange Farm Close, which serves the existing cluster of dwellings and a far greater residential development once the 85 consented dwellings are implemented. The application site therefore represents a more logical site for residential development than commercial.
- 8.5 It is also relevant to recognise that the application site is accessible by foot to Elmstead Market centre as confirmed by a Planning Inspector (Appeal Reference: APP/P1560/W/15/3028070).
- 8.6 The application results in the following key benefits:
- Provision of additional housing to meet district wide and locally housing needs, making a positive contribution towards the Council's housing requirements and providing family housing;
 - Job creation during the construction phase, coupled with additional spending in the local area through future economically active residents;
 - Reduced impact on landscape and visual amenity and reduced traffic movements compared to the consented office scheme;
 - Opportunity for biodiversity enhancements; and
 - Provision of planning contributions, as necessary.
- 8.7 When considering the planning balance of the proposals, the scheme is considered to provide a range of benefits with no disadvantages, when taking into account the planning history of the site and the surrounding area.

APPENDIX 1

Appeal Decision

Site visit made on 28 September 2015

by Jonathan Price BA(Hons) DipTP MRTPI DMS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 October 2015

Appeal Ref: APP/P1560/W/15/3028070

Blue Barn Farm, Clacton Road, Elmstead, Essex CO7 7DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Hills Group against the decision of Tendring District Council.
 - The application Ref 15/00146/OUT, dated 3 February 2015, was refused by notice dated 1 April 2015.
 - The development proposed is erection of three detached dwellings served by new vehicular and pedestrian access.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of three detached dwellings served by new vehicular and pedestrian access at Blue Barn Farm, Clacton Road, Elmstead, Essex CO7 7DF in accordance with the terms of the application, Ref 15/00146/OUT, dated 3 February 2015, and the plans submitted with it, subject to the conditions set out in the Schedule.

Procedural Matter

2. The application was submitted in outline with all detailed matters reserved. I have dealt with the appeal on that basis treating the accompanying block plan and other details as being for illustrative purposes.

Main Issues

3. The main issue in this appeal is whether the proposal would result in a sustainable pattern of development, having regard to access to public transport and other services and the contribution it would make to the supply of available housing sites.

Reasons

4. The appeal site is located within the countryside on the south-west side of the A133 some 0.75 miles west of the nearest main settlement of Elmstead Market. It fronts the road between an existing bungalow and a disused farm shop building. The site frontage is currently used for car sales and the existing accesses serve two dwellings to south. The site of the proposed three houses currently contains the foundations of an uncompleted commercial development.
5. The appeal site is outside the defined settlement limits as defined by saved Policy QL1 of the Tendring District Local Plan 2007 (LP) and Policy SD5 of the Tendring District Local Plan: Proposed Submission Draft 2012 (PSD) (as

amended by the Tendring District Local Plan: Pre-Submission Focussed Changes 2014).

6. The Council's refusal of planning permission relates to these policies, which establish a strategy to concentrate new development where it maximises accessibility to employment, shops and other services. I consider this is consistent with the overall aims in the Framework in respect of sustainable development. However, the Council acknowledges that its policies are not up-to-date in respect of Paragraph 49 of the Framework by not providing a five-year supply of deliverable housing sites. Consequently, under Paragraph 14 of the Framework, planning permission for development should be granted 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.
7. Whilst the appellant seeks some degree of support from PSD Policy PE08, concerning 'aspirational housing', as this is not yet part of an adopted plan and also relates to housing supply I am considering this out-of-date.
8. The Council's view is that it has a 3.6 year supply of deliverable housing sites (as of August 2015) including the 20% buffer required under the Framework where there has been persistent under-delivery (paragraph 47). The essence of the appellant's case is that many of the large sites allocated might not be forthcoming within 5 years whereas this proposal would be readily available. The Council's view is that three dwellings would make only a modest contribution to the under-supply of housing which would not outweigh its findings over the development being unsustainable.
9. I have looked at the site in Tendring District where three houses have recently been allowed on appeal¹ at Kirby-le-Soken, submitted in support of this appeal. Whilst the main issues in that appeal differ from this case it was an example of a site outside of the development limits established in the LP where the Inspector gave weight to three dwellings making a small but valuable contribution to the under-supply of housing. I believe the conclusion reached in this appeal to be relevant here. I am of the view that these proposed three dwellings make a similar contribution to the supply of housing in the balance of considerations required under Paragraph 14 of the Framework.
10. I agree with the Council that the location of the development would encourage journeys by private car. However, my concern is off-set by the availability of access to public transport in terms of a regular bus service and a bus stop sited around 400m west of the appeal site. There is also a continuous footpath on the north side of the main road which would encourage walking to reach the services available in Elmstead Market. I also note the distance from the appeal site to the nearest services is comparable to the appeal in Kirby-le-Soken. Furthermore, Elmstead Market is designated in the LP as a Key Rural Service Centre and provides a wider range of services than Kirby-le-Soken, which has Smaller Rural Settlement status. Contrary to the appellant's view many of the services in Elmstead Market would appear to fall slightly beyond the CIHT recommended walking distances² from the appeal site. Nevertheless I feel that this proposal remains close enough to the wide range of services provided in Elmstead Market to be reasonably accessible by foot.

¹ APP/P1560/A/14/2215954

² CIHT 'Providing For Journeys On Foot' 2000

11. In the overall balance of sustainable development considerations required under paragraph 14 of the Framework, the Council acknowledges the development would not to be over-prominent in views along Clacton Lane and comply with LP Policy NE1 and PSD Policy PLA5. I agree that the proposal would not harm the character and appearance of the area such as to weigh against this appeal for environmental reasons.
12. Improving the appearance of an untidy site would not alone be sufficient reason to support this proposal. However, combined with the other advantages found, and by making a sustainable re-use of existing foundations, I consider this would lend some degree of further support to this proposal.
13. In respect of the economic dimension of sustainable development as the commercial consent for this site was not completed this proposal would not be contrary to LP Policy ER3 and PSD Policy PRO14 which seek to protect existing employment sites and require evidence of non-viability before a change of use is considered. In any event, the appellant has provided evidence of three year's failed attempts at finding a commercial occupier for this site. For these reasons, I find no adverse economic reasons over what is proposed. The proposal would also provide a small benefit to the local economy through its construction and servicing.
14. There is support locally for the development in that it would improve the appearance of the site and from the neighbouring dwellings in that it would provide them with a safe and convenient access and lead to improvements to their currently poor water supply. These are all benefits that I consider would weigh in favour of this proposal.
15. Overall, I consider the benefits of this scheme would outweigh the adverse impacts resulting from the location of this proposal contrary to the reasons set out in the Council's decision.

Conditions

16. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the National Planning Policy Framework. I have attached conditions limiting the life of the planning permission and setting out requirements for the reserved matters in accordance with the requirements of the Act. I have conditioned the approval to the submitted location plan for the avoidance of doubt and in the interests of proper planning. A suitably worded condition has been applied to address any potential contamination present on the site as the Council has recommended. I have not imposed conditions relating to access, materials, landscaping and fencing as these are properly addressed as reserved matters.

Conclusion

17. Whilst the Council and the appellant have differing interpretations over the degree of under-supply of available housing sites my main consideration is the modest but valuable contribution this proposal would make to meeting this. For the above reasons, I consider the Council's development plan concerns over housing located outside of the defined limits not being a sustainable pattern of development, having regard to access to public transport and other services, would not significantly and demonstrably outweigh the benefits found. The proposal would be sustainable development, as supported by the

Framework and, having taken account of all other matters raised, I conclude that the appeal be should be allowed.

Jonathan Price

INSPECTOR

SCHEDULE

CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall relate to the location plan reference 2238_2_01 dated 26 January 2015.
- 5) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.



Appeal Decisions

Site visit made on 4 August 2020

by David Wallis BSc (HONS) PG DipEP MRTPI

an Inspector appointed by the Secretary of State

Decision(s) date: 14 August 2020

Appeal A Ref: APP/P1560/W/20/3248847

Grange Farm Bungalow, Clacton Road, Elmstead Market CO7 7DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Williams against the decision of Tendring District Council.
 - The application Ref 19/01596/FUL, dated 22 October 2019, was refused by notice dated 17 December 2019.
 - The development proposed is the erection of two dwellings and associated car parking.
-

Appeal B Ref: APP/P1560/W/20/3248849

Grange Farm Bungalow, Clacton Road, Elmstead Market CO7 7DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr S Williams against the decision of Tendring District Council.
- The application Ref 19/01031/OUT, dated 10 July 2019, was refused by notice dated 16 October 2019.
- The development proposed is the demolition of existing bungalow and erection of up to nine dwellings and associated garaging.

Decisions

1. Appeal A is allowed, and planning permission is granted for the erection of two dwellings and associated car parking at Grange Farm Bungalow, Clacton Road, Elmstead Market CO7 7DF in accordance with the terms of the application, Ref 19/01596/FUL, dated 22 October 2019 subject to the conditions in the attached schedule.
2. Appeal B is allowed, and planning permission is granted for the demolition of existing bungalow and erection of up to nine dwellings and associated garaging at Grange Farm Bungalow, Clacton Road, Elmstead Market CO7 7DF in accordance with the terms of the application, Ref 19/01031/OUT, dated 10 July 2019 subject to the conditions in the attached schedule.

Preliminary Matters

3. The development plan for Tendring consists of the Saved Policies of the adopted Tendring Local Plan 2007 (adopted Local Plan). The Tendring District Local Plan 2013-2033 and Beyond Publication Draft (emerging Draft Local Plan) is a forthcoming policy document, currently with Section 1 requiring modification before Section 2, which contains District-specific development management policies, can be examined. I have taken account of emerging

policies in my decision, but where I have done so I have given them appropriate weight in view of their stage of preparation with regards paragraph 48 of the National Planning Policy Framework (the Framework).

4. Appeal A is made as a full application whilst Appeal B is made in outline form with all matters reserved. I have determined the appeal on this basis.
5. During the course of both appeals, Unilateral Undertakings (UU) were signed on 29 July 2020 and submitted. For Appeal A, the UU secured provision of contributions towards the Colne Estuary Ramsar and Special Protection Area (SPA). For Appeal B, the UU secured the same SPA contribution as well as provision for public open space contributions. The Council confirmed that both UUs were acceptable for their purposes and thus would not be defending those related reasons for refusal. I shall come to these matters later in my decision.

Main Issues

6. Upon my reading of the documents, the main issues common to both appeals are (1) the provision of affordable housing and (2) the effect of the development upon the Colne Estuary Ramsar and Special Protection Area.
7. Appeal A has a third main issue, that being the effect of the development on the character and appearance of the area.
8. Appeal B has a third main issue, that being contributions towards open space provision.

Reasons

Provision of Affordable Housing

9. The statutory basis for determining applications is Section 38(6) of the Planning and Compulsory Purchase Act 2004. The adopted Local Plan 2007 is a key constituent of the Development Plan for Tendring and, despite being adopted prior to the publication of the National Planning Policy Framework (the Framework), remains in force and its policies are not reduced in weight simply because of their age.
10. The appellant has drawn my attention to policy HG4 of the adopted Local Plan, which states that affordable housing should be provided at a rate of 40% in settlements with a population of 3,000 or fewer, on sites that have potential for 5 or more dwellings or over 0.15 hectares in size. In addition, criterion (i)(c) of policy HG4 states affordable housing should be provided on sites falling below the relevant site-size threshold that are 'demonstrated to form part of a more substantial development'.
11. The appeals are close to, though outside of, the settlement of Elmstead that has a population of less than 3,000 people. Appeal A is for 2 dwellings on a 0.14-hectare site and therefore falls below the site-size thresholds. Appeal B is for 9 dwellings (net gain of 8 following replacement of the existing bungalow) and therefore would exceed the site-size threshold in its own right. The Council contends that both appeals should be read alongside earlier planning permissions on land immediately to the south, for 2 and 5 dwellings respectively, although in doing so the Council does not cite criterion (i)(c) of policy HG4 in any of their documentation, relying instead on the Framework.

12. However, policy HG4 refers that the site-size thresholds are relevant to being 'in settlements.' Criterion (i)(c), by making reference to the site-size thresholds, is therefore intrinsically linked to settlements in its intention, indicated in the explanatory text at paragraph 4.53. Policy QL1 of the adopted Local Plan defines the extent of the settlements as having settlement boundaries, and the appeal sites fall beyond the boundary of the nearest settlement of Elmstead. In addition, the policy thresholds that are stated in policy HG4 are inconsistent with those that define major development within the Framework as being where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. Neither Appeal A nor Appeal B constitute a major development in their own right.
13. On this basis the adopted policy is considered to be out-of-date, and can therefore only be attributed little weight. There is no equivalent policy regarding affordable housing provision in the emerging Local Plan that can be attributed weight at this time, although I note that a lower target of 30% affordable housing is suggested at paragraph 5.13 of that plan, indicating a continuing need for affordable housing provision.
14. I have not been presented with any evidence to suggest the appeal sites form part of an allocated site and nor have I been directed to any national guidance that suggests multiple sites for housing could or should be cumulatively considered when assessing affordable housing delivery.
15. I acknowledge the appeal sites are connected to the recently permitted and developed dwellings to the south by both land ownership and a shared common access road. However, in my view, the provision of 2 new dwellings in Appeal A and 8 new dwellings in Appeal B alongside the permitted, constructed and occupied 7 dwellings to the south, would not amount to part of a 'more substantial development', in any case.
16. Therefore, I conclude there is not a requirement to provide affordable housing on Appeal A or Appeal B. The proposal does not therefore contravene the terms of policy HG4 of the adopted Local Plan.

Effect on the Colne Estuary Ramsar and SPA

17. In 2018 the Court of Justice of the European Union ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA) rather than at the screening stage. This responsibility now falls to me within this appeal.
18. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of the European sites.
19. The site falls within the 13 kilometre 'Zone of Influence' for the Colne Estuary Ramsar and SPA, as defined in the Essex Coast Recreational disturbance and Mitigation Strategy (RAMS) Supplementary Planning Document. This site is designated at European level for its environmental importance, since it provides habitats for wintering birds, wildfowl and wading birds including little terns, bitterns and brent geese. All sites are used for public recreation and there is no dispute between the parties that it cannot be ruled out that the proposal, when considered alone or in combination with other schemes, would have significant effects on the quality features of interest of the SPAs due to

the increased recreational use. I have no reason to disagree with the Council's conclusion relating to the potential significant effects.

20. Having concluded that the scheme, either alone or in combination with other schemes, would have a significant effect on the quality features of interest of the identified European sites, it is incumbent upon me to undertake an Appropriate Assessment. In this Appropriate Assessment I may consider any conditions or other restrictions which could secure mitigation of this harm, and which would therefore allow development to proceed in the knowledge that the conservation objectives, which are to protect important migratory species of birds and to prevent disturbance to their habitat, on the identified site would be ensured.
21. Natural England and the Council have indicated that there is an agreed strategic solution to mitigate the effects of the proposal, in the form of the Council's Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This strategy requires financial contributions from developments and allocates detailed and costed infrastructure and non-infrastructure projects to proposals dependent on their scale and location.
22. The main parties agree that the mitigation can be delivered via the appellant entering into an agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (the Act). The appellant has supplied UUs during the appeals with all requisite signatories upon it. The Council has listed the specifics of the infrastructure to which the payment would contribute towards, in the technical report underpinning the RAMS.
23. This legal agreement would therefore serve to mitigate the recreational impacts arising from the proposal. I am therefore able to favourably conclude my Appropriate Assessment.
24. On this basis I am able to conclude that the required mitigation would be properly secured and that the proposals would be unlikely to have a significant effect on the identified SPA or Ramsar either alone or in combination with other projects. Both Appeal A and Appeal B would comply with policy EN11a of the adopted Local Plan, which requires proposals not to adversely affect the integrity of a designated European site.

Appeal A Character and Appearance of the Area

25. The appeal site sits within a rural area beyond any settlement boundary in a partially agricultural setting with large business premises to the north and a small ribbon development of houses to the south. I observed that the earlier housing permissions for 2 and 5 dwellings had been built-out in full and all properties were occupied. I noted vacant land immediately north of the appeal sites, where an extant planning permission for office buildings exists, which was enclosed by managed landscaping at the time of my visit.
26. The proposed 2 new dwellings would be positioned on corner plots, with the same design and architectural form as the dwellings already constructed. The proposed dwelling on plot 1 shares a directly comparable layout and arrangement to the dwelling built on the opposite side of Grange Farm Bungalow, with similar spatial separation from the public highway. Similarly, the proposed plot 2 dwelling would be a mirror form to the existing dwelling on

the corner plot of No 7 Grange Farm Close, which sits to the southeast of the appeal site.

27. Grange Farm Bungalow would be retained in its current form and layout, with its boundaries shared by the proposed new dwellings. However, the proposed dwellings would be set a modest distance away from these boundaries and would have sufficient garden and parking space in their own right to meet the needs of their occupiers. Whilst the retained bungalow would appear enclosed by the modern development, the proposed housing would be similar in design and layout to the nearby recent residential development, thus not appearing out of place.
28. On this basis the proposed dwellings would not be any more prominent in the locality than the existing extent of built development, appearing instead to harmonise with the character and appearance of the residential area. The proposal therefore would comply with policies QL9, QL10 and QL11 of the adopted Local Plan and policy SPL3 of the emerging Draft Local Plan, which together seek to ensure new development contributes to the quality of the local environment and character.

Appeal B Open Space Provision

29. Policy COM6 of the adopted Local Plan specifies a requirement for financial contributions towards open space provision from developments below 1.5 hectares where existing facilities are inadequate to meet the projected needs of future occupiers. In this case the Council has identified a shortfall of space in the nearest settlement of Elmstead that, if the development in Appeal B were to proceed, would be put under increased pressure from the additional residents.
30. At the time of the application, the appellant had not secured any contribution towards open space. However, the appellant has supplied a UU during the appeal that makes provision for contributions towards open space relative to the size of development.
31. I have considered the legal agreement in light of the amended Community Infrastructure Levy Regulations and the Framework. The obligations sought would be necessary to mitigate the development's impacts on open space and would be related to the size of the development, which the Council agree would be suitably secured by way of the legal agreement.
32. I therefore conclude that, with the legal agreement in place, the proposal would make satisfactory provision for open space and thus would comply with policy COM6 of the adopted Local Plan.

Other Matters

33. I note that the main parties agree there is a housing shortfall at present. In such circumstances, where policies for the supply of housing are out-of-date, the Framework directs that the so-called 'tilted balance' is engaged and therefore planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
34. Both Appeal A and Appeal B provide open market housing, adding to local housing stock and choice, increasing footfall to local shops and services, and contributing to the objectives of supporting a prosperous rural economy. For

both appeals the securing of mitigation in respect of the SPA, though neutral in the planning balance (since there would not be any harm to mitigate if development were not to go ahead), demonstrates the proposals could be delivered without adverse environmental effects.

35. There are clearly economic, social and environmental benefits arising from both appeals, with Appeal B having added benefit in the sense of a greater housing yield as well as contributions towards open space, which supports both the social and environmental vitality of local facilities for the benefit of the wider community.
36. In respect of both appeals, I conclude there is no conflict with the relevant planning policies of the adopted Development Plan. There would not be any adverse effects arising from the development that, individually nor cumulatively, would outweigh the benefits of either appeal scheme.
37. Both Appeal A and Appeal B should succeed in this instance.

Conditions

Appeal A

38. I have imposed conditions regarding commencement and requiring the development to be carried out in accordance with the approved plans for certainty as to the development approved.
39. Given the semi-rural nature of the surroundings, I have considered it necessary to require a condition regarding landscaping works. Whilst I recognise that other properties in the locality have loose-stone driveways, it is reasonable in respect of highway safety to restrict the surface finishes of the accesses to each property given their prominent positions on Grange Farm Close.
40. I have also imposed a condition regarding construction management due to the semi-rural sensitivities of the site and in the interests of protecting the living conditions of nearby residences.
41. Conditions regarding visibility splays, dropped kerbs, parking spaces and garage sizes appear unnecessary and irrelevant given the nature of the development proposed and these matters are detailed on the submitted plans. Equally, the Council recommended condition regarding provision of a footpath through plot 1 into the garden of Grange Farm Bungalow would be unreasonable and unnecessary since no pedestrian access is operational at present.

Appeal B

42. I have imposed conditions appropriate to outline and reserved matters applications for certainty as to the development hereby permitted. I have also imposed conditions regarding access surfacing and construction management for the same reasons identified above for Appeal A.
43. Since access is a reserved matter subject to further consideration, it is not necessary at this stage to impose conditions with regards parking, cycle parking or any other technical highway standard.

44. The Council requested a condition regarding provision of a new bus stop eastbound opposite the development site. This element has not featured in the Council's assessment of Appeal B and there is no evidence before me to suggest why this is reasonable or proportionate to the development, nor that the appellant has control of the land to enable this to be constructed. I have no sufficient justification to impose the condition.

Conclusion

45. For the reasons given above, Appeal A and Appeal B are allowed subject to the relevant signed legal agreements and the conditions in the attached schedule.

David Wallis

INSPECTOR

Appeal A Ref: APP/P1560/W/20/3248847

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 17050 P 02 A, 17050/P/03/-, 17050/P/04/-, 17050/P/05/-, 17050/P/06/- and 17050/P/07-.
- 3) No above ground works shall take place until a scheme of hard and soft landscaping works has been submitted to, and approved in writing by, the Local Planning Authority. The scheme which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection. The scheme shall be implemented in accordance with the approval details and retained as such thereafter.
- 4) No unbound materials shall be used in the surface treatment of the proposed vehicular accesses.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities;
 - v) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Appeal B Ref: APP/P1560/W/20/3248849

Schedule of Conditions

- 1) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) No unbound materials shall be used in the surface treatment of the proposed vehicular accesses.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities;
 - v) delivery, demolition and construction working hours.

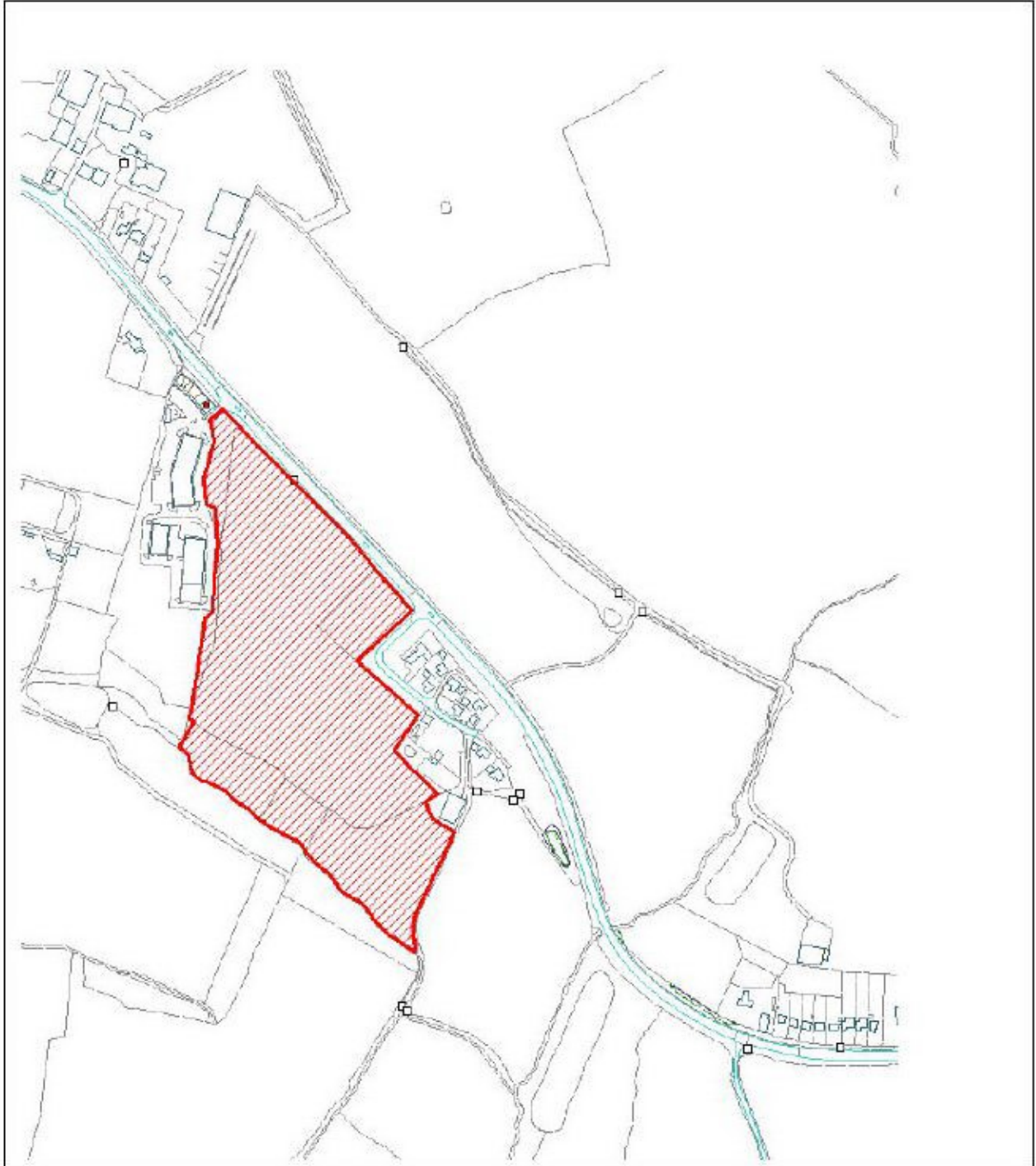
The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

PLANNING COMMITTEE

20TH OCTOBER 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.3 PLANNING APPLICATION – 20/00239/FUL – GROUND FLOOR 1 LANSWOOD PARK
BROOMFIELD ROAD ELMSTEAD COLCHESTER**



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Application: 20/00239/FUL

Town / Parish: Elmstead Market Parish Council

Applicant: Mr Shaikly - Lanswood Limited

Address: Ground Floor 1 Lanswood Park Broomfield Road Elmstead Colchester

Development: Hybrid planning application 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.

1. **Executive Summary**

- 1.1 *This application was removed from the agenda before Planning Committee on 22nd September to enable comments to be received from the Gardens Trust following the recent addition of Beth Chattos Gardens to Historic England's Register of Parks and Gardens of Special Historic Interest in England. The gardens are listed at Grade II. Comments have now been received from the Gardens Trust and amendments to the original report are in italics.*
- 1.2 This application is referred to Planning Committee as it represents a departure from the adopted Tendring District Local Plan, proposing housing outside of any settlement development boundary in both the saved and emerging Local Plans.
- 1.3 This is a hybrid application which seeks 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. Full planning permission is sought for 71 houses.
- 1.4 The application was originally submitted for a total of 72 dwellings and was increased to a total of 85 dwellings in late July, the proposed employment floor space remains unchanged. This change was subject to reconsultation with necessary consultees and neighbours which has now expired. The number of dwellings was increased in order to provide the £430,000 to fund a 3G artificial grass pitch on Charity Field. The Supplementary Planning Document supporting saved Policy COM6 confirms the open space contribution in this case amounts to £205,024.00. In addition to this the applicant is offering an additional contribution of £224,976.00 which combined with the above open space contribution would provide the full cost of providing the 3G artificial grass pitch. This is a departure from saved Policy COM6 and is offered by the applicant in acknowledgement of the scale of the proposed development and its impact upon the Parish of Elmstead Market.
- 1.5 The proposal seeks to use the 71 dwellings seeking full planning permission to "enable" the expansion of the existing Lanswood Business Park due to infrastructure servicing the site reaching capacity as acknowledged in the supporting text to Draft Policy SAE3 (Lanswood Park). The viability of the proposal has been independently assessed and confirms that the proposal cannot provide the £955,835.20 requested by Essex County Council Education or the 26 affordable dwellings. In terms of S106 contributions the applicant offers £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); and £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.

- 1.6 The report confirms that this is a sustainable location for development and the significant economic benefits of the proposal in providing up to 10,000 square metres of employment floor space, estimated to provide around 600 jobs, are considered to outweigh the modest landscape harm in this context of mixed residential and commercial development. The proposal does not provide the required contributions towards affordable housing or education on the grounds of viability and this is clearly a negative factor in terms of social sustainability and needs to be balanced against the significant economic benefits of the proposal. Officers are of the opinion that the economic benefits of the proposal, and the viability evidence provided, overrides the absence of contributions towards education and affordable housing.
- 1.7 The proposal, subject to the recommended conditions, is also considered acceptable in terms of highway safety; residential amenity; ecology; heritage assets; archaeology; drainage; and detailed design, scale and layout.

Recommendation: Full and Outline Approval

That the Assistant Director for Planning be authorised to grant full and outline planning permission for the development subject to:-

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, 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 (where relevant):**
- **Financial Contribution towards RAMS**
 - **Open Space contribution of £430,000 for 3G artificial grass pitch at Charity Field**
 - **Financial contribution of £50,000 towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road**
 - **Workplace travel plan monitoring fee of £6,000**
 - **Limit occupation of the proposed houses (e.g. 50% occupation until half of the infrastructure improvements have been completed, and 75% occupation until all of the infrastructure improvements have been completed) until the infrastructure improvements are complete and supplied to the site of the proposed Business Park expansion**
- b) Subject to the conditions stated in section 8.2
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

National Planning Policy Framework 2019 (NPPF)

Adopted Local Plan Policies (2007)

QL1	Spatial Strategy
QL2	Promoting Transport Choice
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
HG3A	Mixed Communities
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
HG13	Backland Residential Development
COM1	Access for All
COM31a:	Sewerage and Sewage Disposal
EN1:	Landscape Character
EN6:	Biodiversity
EN6a:	Protected Species
EN6b:	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN23	Development within the proximity of a listed building
TR1a:	Development Affecting Highways
TR7	Vehicle Parking at New Development

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

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
SP4	Providing for Employment & Retail
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP3	Green Infrastructure
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP8	Backland development
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL9	Listed Buildings
CP1	Sustainable Transport and Accessibility
CP3	Improving the Telecommunications Network
SAE3	Lanswood Park

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice
Essex Design Guide

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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 48 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 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

- 2.3 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities ‘Garden Communities’ proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.
- 2.4 The three North Essex Authorities are currently considering the Inspector’s advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.
- 2.5 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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 48 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.
- 2.6 In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years’ worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF (which applies until such time that the figures in the new Local Plan are adopted).

In addition, the actual need for housing (as set out in the emerging Local Plan) was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local Plan, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector’s endorsement of the lower housing requirement figure is a strong material

consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

3. Relevant Planning History

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/NM A	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/DIS CON	Discharge of condition 10 (materials) of planning permission 08/01426/FUL.	Approved	24.04.2015
16/00126/NM A	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
17/00785/OUT	Hybrid submission for outline permission for the provision of proposed buildings 7, 8, & 9. Variation of approved planning application 08/01426/FUL to provide two smaller footprint and smaller scale office buildings identified as 5 & 6 as replacement for original single building.	Approved	09.10.2017
18/00901/NM A	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
18/30205/PRE APP	Mixed use development.	Support	22.08.2019
19/01178/EIA SCR	Request for an EIA Screening Opinion.	Not EIA development	20.08.2019

4. Consultations

ECC Archaeology This planning application has been identified as having the potential

to harm non-designated heritage assets with archaeological interest. The Essex Historic Environment Record identified the potential for below ground archaeological deposits in this area indicated by cropmark evidence and evaluation within the adjacent site.

In advance of a decision on the above application a programme of archaeological evaluation was requested. The work specified included a programme of aerial rectification of the cropmark features shown on the EHER followed by a targeted trial trench investigation. The evaluation has succeeded in locating most of the cropmark features identified and provided sufficient evidence to determine the nature and significance of the archaeological remains and to make recommendations. A further phase of fieldwork will be required, by condition, for the above application once permission is gained.

The following recommendations are made in line with the Department for Communities and Local Government National Planning Policy Framework:

RECOMMENDATION: Archaeological excavation

1. No development or preliminary groundworks can commence until a mitigation strategy detailing the excavation / preservation strategy shall be submitted to the local planning authority.
2. No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.
3. The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

ECC Highways Dept

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

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

No development shall take place until the following have been provided or completed:

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities
- v. prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

- 2. A financial contribution of **£50,000 (index linked)** towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road.

Reason: In the interests of highway safety and efficiency.

- 3. No occupation of the development shall take place until the following have been provided or completed:

- a) A preliminary design and Stage 1 Road Safety Audit outlining the proposed junction proposal for the residential development with Grange Farm Close and office development proposed opposite Grange Farm Close. (details shall be agreed with the Local Planning Authority prior to commencement of the development).
- b) For the residential development an affective 2 metre footway shall be provided from the development to the two new bus stops on A133 Clacton Road. (Where possible any new section of footway adjacent to the A133 should be set back from the edge of carriageway so pedestrians don't have to walk adjacent to the carriageway).
- c) For the residential development two new bus stops on A133 Clacton Road to be provided near Grange Farm Close junction to include but not restricted to shelter (x2) with bus stop flag, Kassel Kerbs and bus timetables.
- d) Alterations to the existing refuge island near the Grange Farm Close junction to provide a crossing point for pedestrians to the new bus stop on the south-eastbound side with drop kerbs/ tactile paving and an affective 2-metre-wide footway to the bus stop.
- e) The upgrade of the two closest bus stops (known as Beth Chatto Gardens) on the A133 Clacton Road near Lanswood Park the improvements to include but not restricted to: bus stop flags, bus timetables, Kassel Kerbs and drop kerbs/tactile paving (x2) for the pedestrian crossing points.

Reason: To make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated as a result of the proposed development in accordance with policy DM1 and DM9.

- 4. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the

highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

5. Prior to occupation the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been marked out in parking bays. The vehicle parking area and associated turning area shall always be retained in this form. 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.

6. Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

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

7. The submission of a workplace travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years. It shall be accompanied by a monitoring fee of £6,000 (plus the relevant sustainable travel indexation) to be paid before occupation to cover the 5-year period.

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.

10. 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.

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.

Notes:

- The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate.
- In making this recommendation the Highway Authority has treated all planning application drawings relating to the internal layout of the proposal site as illustrative only.
- Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway

Authority under the Highways Act 1980 to regulate the construction of the highway works.

- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)

ECC Heritage

No objection.

NHS East Essex CCG

On further review, the healthcare situation has not changed since the last consultation in March 2020 and therefore we will not be seeking a healthcare contribution as the impacted Practice (within the vicinity of the application site) is not currently over capacity.

UU Open Spaces

There is currently a deficit of 4.51 hectares of equipped play/formal open space in Elmstead Market. A contribution towards play and open space is justified and relevant to this planning application. The Parish Council wish to build a 3G artificial grass pitch with sports lighting (61 x 43 m), 2623msq, at the site known as Charity Fields on School Road.

ECC Ecology

No objection subject to securing
a) a proportionate financial contribution towards visitor management in line with Essex Coast RAMS and b) ecological mitigation and biodiversity enhancement measures

We have reviewed the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats. We are satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

We note that Tendring DC have prepared a project level HRA Appropriate Assessment which identifies that the development is approximately 3.4km from the Colne Estuary SPA and Ramsar site. Therefore this site lies within the Zone of Influence (ZOI) for the Essex Coast RAMS and delivery of mitigation measures in perpetuity will therefore be necessary to ensure that this proposal will not have an adverse effect on the integrity of the above Habitats sites from recreational disturbance, when considered 'in combination' with other plans and projects. We also note that Tendring DC will secure the Essex Coast RAMS contribution of £125.58 per dwelling under a legal agreement.

The mitigation measures identified in the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species. We recommend that a Construction Environmental Management Plans (Biodiversity) CEMP is also submitted to the LPA, prior to commencement. This should detail the protection measures for the woodland onsite, a biosecurity protocol for the identified American Skunk Cabbage, as well as suitable additional precautionary mitigation measures for protected and

Priority species.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured prior to slab level. This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013.

Recommended conditions:

Full application

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020) 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 UK Habitats Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

2. PRIOR TO COMMENCEMENT: ADDITIONAL MEASURES FOR BADGERS

"No development shall take place (including any demolition, ground works, site clearance) until a further badger survey and updated mitigation statement has been submitted to and approved in writing by the local planning authority. This further survey shall be undertaken to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase. The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter."

Reason: To conserve Protected species and allow the LPA to discharge its duties under the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

3. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (BIODIVERSITY)

"A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

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

4. PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT LAYOUT

"A Biodiversity Enhancement Layout providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020), shall be submitted to and approved in writing by the local planning authority.

The enhancement measures shall be implemented in accordance with the approved details and all features 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 s40 of the NERC Act 2006 (Priority habitats & species).

5. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

"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 contour plans, Isolux 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 UK Habitats Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

Outline application

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020) 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 UK Habitats Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

2. CONCURRENT WITH RESERVED MATTERS PRIOR TO COMMENCEMENT: ADDITIONAL MEASURES FOR BADGERS

"No development shall take place (including any demolition, ground works, site clearance) until a further badger survey and updated mitigation statement has been submitted to and approved in writing by the local planning authority.

This further survey shall be undertaken to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase. The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter."

Reason: To conserve Protected species and allow the LPA to discharge its duties under the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

3. CONCURRENT WITH RESERVED MATTERS: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

(BIODIVERSITY)

"A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- j) Risk assessment of potentially damaging construction activities.
- k) Identification of "biodiversity protection zones".
- l) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- m) The location and timing of sensitive works to avoid harm to biodiversity features.
- n) The times during construction when specialist ecologists need to be present on site to oversee works.
- o) Responsible persons and lines of communication.
- p) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- q) Use of protective fences, exclusion barriers and warning signs.
- r) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

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

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The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter"

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Isolux 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.

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

TDC Environmental Protection

Have reviewed the Contaminated Land Assessment and satisfied with the findings.

Due to the residential areas close proximity to the proposed commercial units, prior to commencement of the development a Noise Impact Assessment should be submitted to the Local Planning Authority.

In order to minimise potential nuisance to nearby existing residents caused by construction works, Environmental Protection ask that the following is conditioned:

Prior to the commencement of any construction works, the applicant (or their contractors) shall submit a full construction method statement to, and receive written approval from, Environmental Protection.

ECC SuDS Consultee

Having reviewed the FRA Addendum, ECC SuDS are happy that the originally recommended pre-commencement conditions can be applied to this application.

Lead Local Flood Authority position

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

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

- Limiting discharge to 3.3 l/s (greenfield 1 in 1 year rate which should be confirmed by greenfield calculations) for the residential site, for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated. Discharge via infiltration for the commercial site for all storm events up to and including the 1 in 100 year rate plus 20% allowance for

climate change.

- Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

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

Reason: The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

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

Should any part be maintainable by a maintenance company, details

of long term funding arrangements should be provided.

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

Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

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

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

Anglian Water Services Ltd

Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

Section 2 - Wastewater Treatment

The foul drainage from this development is in the catchment of Thorington Water Recycling Centre that will have available capacity for these flows

Section 3 - Used Water Network

Development may lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. There has been no foul water strategy submitted in support of this application. We therefore request a condition requiring an on-site drainage strategy.

Section 4 - Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local

Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be reconsulted to ensure that an effective surface water drainage strategy is prepared and implemented.

Section 5 - Trade Effluent

The planning application includes employment/commercial use. To discharge trade effluent from trade premises to a public sewer vested in Anglian Water requires our consent. It is an offence under section 118 of the Water Industry Act 1991 to discharge trade effluent to sewer without consent. Anglian Water would ask that the following text be included within your Notice should permission be granted.

"An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.

Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

Section 6 - Suggested Planning Conditions

Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval.

Used Water Sewerage Network (Section 3)

We have no objection subject to the following condition: Condition Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme. Reason To prevent environmental and amenity problems arising from flooding.

TDC Housing Services

The application proposes 85 dwellings in total and as such, the affordable housing requirements in the emerging Local Plan will apply. The emerging 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 (25.5 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 - 97 households

3 bed - 68 households
4 bed - 28 households

Given the demand for housing, TDC Housing would prefer to see the affordable dwellings delivered on-site. TDC Housing would prefer that another registered provider is sought to take on the affordable dwellings.

ECC Schools Service

Details of the proposed mix have not been provided; therefore ECC Schools have assessed the application on the basis that all of these units are homes with two or more bedrooms. A development of this size can be expected to generate the need for up to 7.65 Early Years and Childcare (EY&C) places; 25.5 primary school, and 17 secondary school places.

Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of indexation.

Early Years and Childcare

Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high-quality early years and childcare provision to meet local demand. This includes provision of childcare places for children aged between 0-5 years as well as wrap around provision for school aged children (5-11 or up to 19 with additional needs).

The proposed development is located within Alresford and Elmstead ward (postcode CO7 7FD). According to latest available childcare sufficiency data, there are 13 early years and childcare providers within a 3 mile radius. There are unfilled places recorded as well as a nursery expansion project planned with S106 funding that has already been allocated. As there are sufficient places available in the area, a developers' contribution towards new childcare places will not be required for this application.

Primary Education

This development sits within the priority admissions area of Elmstead Primary School, which currently has an official total capacity of 208 places. As of January, the school had 217 pupils on roll, with 33 children in one class. According to the Essex School Organisation Service's 'Ten Year Plan' to meet demand for school places, the local group of schools (Tendring Primary Planning Group 3) are already under pressure. Forecasts suggest growing demand for places over the Plan period with a potential need for around two forms of entry of additional capacity by 2028/29. The demand generated by this development would be in addition to this demand, therefore a developer contribution of £440,334, index linked to April 2020, is sought to mitigate its impact on local primary school provision. This equates to £17,268 per place.

Secondary Education

With regards to secondary school provision, the local school would be Colne Community School and College, which has a Published Admission Number of 248 pupils per year. As of January, the school were full in three of the five statutory age year groups, including the

cohort admitted last September. Forecasts, set out in the 10 Year Plan, suggest the school will again be full this coming September with increasing demand there-on-in. In response, a two form entry expansion is proposed. The demand generated by this development would be in addition to this demand, therefore a developer contribution of £404,175 index linked to April 2020, is sought to mitigate its impact on local secondary school provision. This equates to £23,775 per place.

School Transport

Having reviewed the proximity of the site to the nearest primary school, Essex County Council will not be seeking a primary school transport contribution, however, the developer should ensure that safe direct walking and cycling routes to local schools are available.

Having reviewed the proximity of the site to the nearest secondary school, Essex County Council will be seeking a secondary school transport contribution. The cost of providing this is £85,595 Index Linked to April 2020.

Libraries

ECC may seek contributions to support the expansion of the library service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications. In this case the suggested population increase brought about by the proposed development is expected to create additional usage of Wivenhoe library. As outlined in the adopted Essex Developers' Guide to Infrastructure Contributions (2016), a contribution is therefore considered necessary to improve, enhance and extend the facilities and services statutorily provided to account for the expected increase in number using these facilities. The requested contribution is based on the following calculation: Average. RICS East of England Library tender value cost per m2 for library provision x 30m2 / 1000 x av. household occupants + av. fitting out costs of a new provision in Essex + provision of stock per dwelling. In this case, and taking the above into account, it is calculated that a contribution of £25,731.20 is requested and should be included in any Section 106 Agreement should the Council be minded to grant permission.

In view of the above, it is requested on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on primary and secondary education, secondary school transport and libraries. The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

If your council were minded to turn down the application, it would be

gratefully requested that the lack of surplus primary and secondary education, secondary school transport and library provision in the area to accommodate the proposed new homes be noted as an additional reason for refusal, and that ECC are automatically consulted on any appeal or further application relating to the site.

TDC Regeneration

TDC Regeneration understand that the hybrid planning application seeks detailed planning permission for 85 residential units and outline planning consent for up to 10,000 sq m of B1, B2, B8 commercial employment space – the residential component being enabling development to help meet the cost of servicing the commercial site with the required utilities (there is understood to be significant capacity issues vis-à-vis the supply of power to the East of Elmstead Market).

It is understood that the commercial development is expected to provide capacity for circa 600 jobs.

Commentary is confined to those aspects of the application that focus on the provision of employment space.

Lanswood Park has established a deserved reputation for providing high quality commercial space and as such has quickly become the primary focus for commercial activity in the West of the district. The existing commercial site has also come to set the benchmark for commercial development in Tendring, and responds directly to the growing demand for both incubation and move-on space in the district. The development has a strong track record in capturing inward investment with established and successful businesses (with an agenda for growth) moving to the site from outside of the district. The indicative design for the commercial buildings is in keeping with the existing units, and together with the proposed site landscaping will only add to the quality feel of the established commercial development.

The site enjoys good access to the A133 and via Frating to the A120. Its location as a commercial centre is therefore supported by the existing transport network and further enhanced by the bus services that travel along it.

Given the success of the existing Lanswood Park development, and the growing demand for commercial space in the district, the Council's Regeneration Service has no hesitation in supporting this application and in so doing acknowledge the symbiotic relationship the commercial aspects of the application must have with the proposed residential development.

Essex Police

In order to comply with Tendring's Consultation document to the formation of Tendring Local Plan to 2033 - Policy PL4 - Housing Layout - 'minimise the opportunities for crime and antisocial behaviour by ensuring good surveillance, clear definition between public and private spaces', by way of, for example, uniform lighting without dark areas, having effective physical security on each dwelling, positioning garden gates sited as near as possible to the front of the property, Essex Police would like to see this developer seek to achieve a Secured by Design award in respect of this

development. The proposed site plan does show most of the dwellings seem to be positioned well for good natural surveillance while protecting the vulnerable rear of the properties by having the gardens backing directly onto other gardens. The applicant did not seek pre-application consultation as referenced in NPPF.

- Essex Police notes that plots 1-9 and 70-72 have a rear parking courtyard however these are to be discouraged as they introduce access to the vulnerable rear elevations of dwellings where the majority of burglary is perpetrated, are often left unlit and therefore increase the fear of crime plus courtyards provide areas of concealment which can encourage antisocial behaviour. To counteract the negative impact of rear parking courtyards, there are simple security measures available, e.g. key to key lockable rear garden gates, appropriate lighting and lower rear fencing topped with wooden trellis that allows for informal observation from the resident.

The Gardens Trust

Thank you for consulting The Gardens Trust (GT) in its role as statutory consultee with regard to proposed development affecting a site listed by Historic England (HE) on their Register of Parks and Gardens as per the above application. We have liaised with our colleagues in the Essex Gardens Trust (EGT) and their local knowledge informs this response.

The Lanswood Business Park is a successful development which has improved a previous brownfield site. It is now proposed to construct more business units and 85 houses. The site is outside the village of Elmstead Market, outside the settlement development boundary, and is not included in the local plan. In this context, the housing is seen as enabling development to offset the infrastructure costs of the new business units.

The development site is located on the south side of the A133 Clacton Road, where the land slopes down into the wooded valley of the Elmstead Brook. The new business units would be located near the existing ones close to the road. The gently sloping valley side would be the site of the housing. In this largely flat London Clay plateau, the valleys are of particular landscape importance. Further west in the valley are the Beth Chatto Gardens. These were designated a grade II registered landscape by DCMS on the advice of Historic England on 21st August 2020 after the application was validated, a circumstance which has prompted this advice letter.

The proposed housing would not border directly onto the Beth Chatto Gardens. It would be screened from them by woodland, which would be continuous with (though not connected to) the Woodland Garden area at the east end of the Gardens, nor would the housing and the Gardens be intervisible. However, this is an area that seems to be under considerable development pressure. There is an existing approval for eight houses at Forres directly on the north side of the Gardens. The Lanswood application would see the intrusion of built form into the valley leaving the Gardens on the north side partially enclosed by housing. It would thus contribute to the incremental erosion of the wider setting of the Gardens. Setting is defined in the National Planning Policy Framework as the surroundings in which the heritage asset (i.e. the Gardens) is experienced.

With the recent designation of the Gardens, your authority should recognise that the Gardens are one of the District's major attractions and amenities, of national importance. Their protection should therefore be a major concern. It is for your authority to decide whether the less than substantial harm to the setting of the Gardens by the housing is outweighed by any public benefit.

5. Representations

5.1 Elmstead Parish Council (comments on amended proposal) is in favour of this application subject to the S106 offer as stated in the letter dated 21st July 2020 reference 19.003 from ABC Planning to Alison Newland.

5.2 Original proposal: 7 objections received summarised below:

- Over development in the Elmstead area through recent permissions;
- Increased pressure on local amenities such as schools, doctors and transport infrastructure;
- Further encroachment on green belt land that currently provides buffer area between villages;
- Loss of view of the woodland from neighbouring properties;
- Increased traffic compromising car and pedestrian safety;
- Heavy machinery will cause noise and dust pollution to local residents;
- Overlooking existing cottages which compromises resident privacy;
- Drainage and sewage issues for new development and existing dwellings with cesspits;
- Out of character;
- Over bearing;
- Poor design and scale consideration;
- Noise, artificial light and property depreciation;
- Environmental concerns/Wildlife and countryside;
- Dangerous site entrance - unlit carriageway, brow of hill and history of collisions;
- Lack of access and private road use;
- Abundance of wildlife already under threat from overdevelopment of the local area;
- Two dwellings at Grange Farm Bungalow have been refused and objected to by Elmstead Parish Council due to being out of character;
- Visitor parking insufficient will create overspill to neighbouring roads;
- Disappointed with the applicant's pre-consultation meeting;
- Existing footpaths are poorly maintained;
- Wildlife will be hugely impacted with no visible work done to assess/protect the protected species this would disrupt;
- Currently the village has circa 800 established residential dwellings with another 290 with the status of approved and/or under construction - by granting approval for another 72 in addition to this equates to almost a 10 percent increase on established dwellings and a combined increase with approved/under construction by a massive 45% increase; and
- Disruption during construction.

5.3 Original proposal: 2 comments of support summarised below:

- Occupy largest single unit on the site and currently employ 16 people and this will allow us to expand by around 100%;
- Good road access for businesses;

- Aesthetically pleasing design;
- Well thought out proposal allowing growth in a village that has been in decline for many years;
- Adds to an existing small crop of new houses which currently look out of place;
- Lanswood has a very popular cafe which is well used by locals and passing traffic alike which again appears to be a boost to the area and could be developed in a nice setting;
- The quality of the additional business space coupled with the housing opportunities will make us a more attractive employer and should help in attracting the right type of candidates.

5.4 Amended proposal: 2 objections summarised below:

- The access linking the site to the main road is a private road, maintained and paid for by 9 existing households so would be subject to various legal challenges if planning was accepted. They should use the existing commercial access;
- Access is not included to the 71 houses;
- Feel that the impact of this large scale build, on top of an additional 14 houses will have a considerable health risk to our village;
- Appreciate two additional bus stop with shelters, new footway and junction improvements to A133/B1029;
- No objection to Lanswood Park increasing their office space but with their housing proposal still object.

6. Assessment

Site Context

- 6.1 The site comprises vacant agricultural land and lies to the east of the existing Lanswood Park Business Centre which is proposed under this application for expansion, beyond that to the east lies Beth Chattos Gardens which has recently been added to Historic England's Register of Parks and Gardens of Special Historic Interest in England. To the north-eastern site boundary lies Clacton Road (A133). The main residential part of the proposal is separated from Clacton Road by an office development and dwellings at Grange Farm Close. The eastern boundary of the main residential area is open arable farmland with a large agricultural building at the north east corner. The southern boundary is woodland and Elmstead Brook with farmland beyond.
- 6.2 The main area of the site has a flat to gently sloping gradient towards the south, this is most pronounced from Clacton Road looking south west. The south/south-east section of site is at a lower ground level, this exposes the site to longer distance views, particularly to the East on Clacton Road. The site is not subject to any landscape designations.
- 6.3 The context of the site has changed significantly over recent years with development and extant permissions for residential and commercial development occupying this south side of Clacton Road.

Planning History

- 6.4 The detailed history above confirms the redevelopment of this site to Lanswood Business Centre with permissions starting from 2009. The existing buildings benefit from a variety of uses with use classes B1 (business), B2 (general industrial) and B8 (storage and distribution) dominating but also including A1 (retail), A2 (financial and professional services), A3 (restaurants and cafés), and D1 (day nursery) uses/permissions.

- 6.5 10/00488/FUL approved a building for A1, A2, A3, B1, B2, B8 and D1 day nursery following demolition of the existing garden centre. The garden centre has been demolished but the building has not been erected.
- 6.6 In the immediate area there have been seven new dwellings approved and built at Grange Farm Close to the immediate north of the proposed main residential area under references 17/01617/OUT and 18/00003/DETAIL, and 16/00724/OUT and 18/00004/DETAIL. These permissions are adjacent to the existing dwellings at Grange Farm Bungalow, Grange Farm Cottage and Blue Barn Farm Cottages.
- 6.7 Site to the immediate west of the access from the main residential area onto the A133: 18/01858/OUT and 19/01140/DETAIL approved 'Proposed office development of up to 929sqm B1 office with associated car parking, infrastructure and landscaping' to the immediate north of the proposed main residential area.
- 6.8 Site to the immediate east of the access from the main residential area onto the A133: 18/00644/OUT was refused in June 2018 and dismissed at appeal (APP/P1560/W/18/3208427) in July 2019 for 'Demolition of existing bungalow and erection of up to nine dwellings and associated garaging' at Grange Farm Bungalow. The Inspector confirmed the site is sustainably located and also referred to the changed character of the site: "Directly southeast of the site is a development of dwellings that have recently been constructed. These dwellings are all detached and display a degree of openness and spaciousness about them. Immediately to the northwest of the site permission has also been granted for an office development which is currently under construction. Thus, I do not consider that a development of additional dwellings between these two sites would fail to respect the character of the area, which has been the subject of change in the recent past." That appeal was dismissed solely in the absence of a legal agreement securing a RAMS contribution.
- 6.9 19/01031/OUT was a resubmission for the same description of development which was refused October 2019 and is currently at appeal (APP/P1560/W/20/3248849). The reason for refusal related solely to the absence of a legal agreement to provide for RAMS, affordable housing and public open space contributions.
- 6.10 19/01596/FUL was refused but allowed at appeal [Appeal A] in August 2020 (APP/P1560/W/20/3248847) for Erection of two dwellings and associated car parking at Grange Farm Bungalow. The reason for refusal related to the absence of a legal agreement to provide for RAMS and affordable housing, and the effect of the development on the character and appearance of the area.
- 6.11 At appeal both applications provided a satisfactory legal agreement overcoming those reasons for refusal and the Inspector disagreed that affordable housing was required. In relation to harm to the character and appearance of the area the Inspector concluded "...the proposed dwellings would not be any more prominent in the locality than the existing extent of built development, appearing instead to harmonise with the character and appearance of the residential area. The proposal therefore would comply with policies QL9, QL10 and QL11 of the adopted Local Plan and policy SPL3 of the emerging Draft Local Plan, which together seek to ensure new development contributes to the quality of the local environment and character." "There are clearly economic, social and environmental benefits arising from both appeals, with Appeal B having added benefit in the sense of a greater housing yield as well as contributions towards open space, which supports both the social and environmental vitality of local facilities for the benefit of the wider community." "In respect of both appeals, I conclude there is no conflict with the relevant planning policies of the adopted Development Plan. There would not be any adverse effects arising from the development that, individually nor cumulatively, would outweigh the benefits of either appeal scheme."

Proposal

- 6.12 The application seeks 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 (plots 72-85). Full planning permission is also sought for 71 houses (plots 1-71).
- 6.13 The application was originally submitted for a total of 72 dwellings and was increased to 85 dwellings in late July, the proposed employment floor space remains unchanged. This change was subject to re-consultation with necessary consultees, and neighbours which has now expired. The number of dwellings was increased in order to provide the £430,000 to fund a 3G artificial grass pitch on Charity Field.
- 6.14 The housing mix for the 71 dwellings seeking full planning permission is 6 two bed houses, 44 three bed houses, 7 three bed bungalows, 11 four bed houses and 3 five bed houses. The indicative mix for the outline element is 3 two bed houses, 7 three bed houses, and 4 four bed houses.
- 6.15 An amended site plan and certificate was received on 27th August 2020 including the full vehicular access from the residential element linking to Clacton Road.

Principle of Development

- 6.16 The site lies outside of any settlement development boundary in both the adopted 2007 Tendring District Local Plan and the emerging 2017 Local Plan. The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 6.17 At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF (which applies until such time that the figures in the new Local Plan are adopted).
- 6.18 In addition, the actual need for housing (as set out in the emerging Local Plan) was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local Plan, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector's endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.
- 6.19 Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated

above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.

- 6.20 While the NPPF advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise.
- 6.21 In line with Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective. These are assessed below. The sustainability of the application site is therefore of particular importance.

Economic

- 6.22 Paragraph 80 of the NPPF states *"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential."*
- 6.23 Paragraph 84 of the NPPF states *"Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist."*
- 6.24 The site is now an established employment site (although not allocated as an existing employment site within either the adopted or emerging local plan) and the proposal represents an expansion to an existing employment use. Saved Policy ER7 supports business, industrial and warehouse proposals where they comply with 8 criteria a) scale and nature is appropriate to the locality; b) no unacceptable impact upon amenity; c) satisfactory vehicular access and parking is provided; d) mains water with mains sewage and/or adequate waste water and trade effluent treatment facilities can be made available; e) acceptable storage with no open storage where visually intrusive; f) in relation to a change of use, that the existing premises are suitable for the purpose; g) in relation to new sites, the need for a comprehensive Design Brief, including a landscaping scheme has been considered and where necessary prepared; and; h) opportunities for promoting rail freight or through the District's ports are in no way compromised. These matters are all addressed in the report below and deemed to be acceptable except e) where a condition is recommended relating to open storage and outside working; and h) the site is not close to a railway line or port.
- 6.25 Draft Policy PP7 identifies the rear section of the site (where the attenuation pond and buildings 7, 8 and 9 are located approved under 17/00785/OUT) as an employment allocation to provide for B1, B2 and B8 uses confirming that these uses will be supported in order to provide job opportunities for residents in the District. Draft Policy SAE3 relates to the allocation of that rear section of the site for 1.2 hectares of employment land. The supporting text to Draft Policy SAE3 states "It is recognised that further development at this site will require a major

infrastructure investment to provide an electricity connection to Alresford as the electricity grid capacity has been reached. This is an abnormal cost and yields realised from employment sites in Tendring may not be sufficient to bear this cost and therefore it may make the further phases unviable. In this case the Council will consider an open book appraisal of any enabling development to secure the uplift in land value to fund the electricity cabling works to Alresford."

- 6.26 The application seeks outline planning permission for up to 10,000 square metres of employment floor space within use classes B1 (business), B2 (general industrial) and B8 (storage and distribution). It is estimated this would provide around 600 full time jobs. Lanswood Business Centre has grown over recent years and is a significant local employer (stated to be around 400 existing employees), the proposal represents an expansion to this existing site. Indicative layout and elevations have been provided which illustrate how this floor space could be provided on site in a similar manner to the existing Lanswood Business Centre.
- 6.27 The Council's Regeneration Team support the proposal stating that Lanswood Park has established a deserved reputation for providing high quality commercial space and as such has quickly become the primary focus for commercial activity in the West of the District. The existing commercial site has also come to set the benchmark for commercial development in Tendring, and responds directly to the growing demand for both incubation and move-on space in the District. The development has a strong track record in capturing inward investment with established and successful businesses (with an agenda for growth) moving to the site from outside of the District. The site enjoys good access to the A133 and via Frating to the A120. Its location as a commercial centre is therefore supported by the existing transport network and further enhanced by the bus services that travel along it. Given the success of the existing Lanswood Park development, and the growing demand for commercial space in the District, the Council's Regeneration Service has no hesitation in supporting this application and in so doing acknowledge the symbiotic relationship the commercial aspects of the application must have with the proposed residential development.
- 6.28 It is also considered that the provision of 85 dwellings would contribute economically to the area, by providing employment during the construction of the properties and from future occupants utilising local services.
- 6.29 The proposal therefore performs very strongly in terms of economic sustainability.

Social

- 6.30 Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the District's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraph 8 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.31 Elmstead Market is categorised in emerging Policy SPL1 as a 'Rural Service Centre' in recognition of its size and range of local services. For this scale of settlement the Local Plan identifies opportunities for smaller-scale growth. The site in question has not been allocated for such growth in the emerging Local Plan and is outside the defined settlement boundaries in both the draft and emerging Local Plans.
- 6.32 The site lies around a mile from the edge of the settlement of Elmstead Market linked by a footpath. There are also bus stops in close proximity that provide regular services to Wivenhoe, Clacton and Colchester. The site is therefore considered to be within a reasonable, and safe, walking distance of the range of services and facilities within Elmstead Market,

including schools, shops and employment and is therefore sustainably located as confirmed by planning and appeal decisions for neighbouring sites as detailed under the Planning History section of this report. The location therefore meets the social objective of sustainable development.

- 6.33 The proposal does not include the required contributions towards affordable housing or education on the grounds of viability as considered in detail below. This clearly is a negative factor in terms of social sustainability and needs to be balanced against the significant economic benefits of the proposal. Officers are of the opinion that the economic benefits of the proposal, and the viability evidence detailed below, overrides any harm from the location of housing outside of the settlement development boundary and the absence of contributions towards education and affordable housing.

Environmental

- 6.34 The environmental role is about contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy. As discussed under 'Landscaping' and 'Biodiversity' below, subject to the recommended conditions and adequate detailed design and soft landscaping, the economic benefits of the proposal would override any environmental harm.

Viability

- 6.35 Paragraph 57 of the NPPF states *"Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available."*
- 6.36 The applicant submitted a pre-application enquiry 18/30205/PREAPP to consider viability at an early stage in this process due to abnormal infrastructure costs required to enable the business park expansion. These costs relate to securing electricity, gas, and water connections due to significant capacity issues. The supporting text to Draft Policy SAE3 Lanswood Park acknowledges these constraints and states "It is recognised that further development at this site will require a major infrastructure investment to provide an electricity connection to Alresford as the electricity grid capacity has been reached. This is an abnormal cost and yields realised from employment sites in Tendring may not be sufficient to bear this cost and therefore it may make the further phases unviable. In this case the Council will consider an open book appraisal of any enabling development to secure the uplift in land value to fund the electricity cabling works to Alresford."
- 6.37 *Without these infrastructure improvements the existing Lanswood Business Park cannot expand as the costs are too great and would make further expansion unviable. The abnormal costs comprise £199,950 UK Power Networks (UKPN) 1MW network connection and onsite transformer, £62,347 electric install (cable purchase, cable installation, ducting, sand lining and labour), £37,800 Genseed drill (providing two underground drills to UKPN specification beneath the Brook), £100,000 A133 junction and footpath improvements, Affinity Water Assessment £2,016, Affinity Water Upgrade £50,000 (as existing main is too small), Farmers Contribution (fee for land access to deliver infrastructure upgrades) £212,000, and additional Gas Works £154,915 (to install heating to new commercial units).*

- 6.38 These abnormal costs were reviewed at pre-application stage by Quantity Surveyors at the District Valuers on the Council's behalf and were accepted as reasonable, the abnormal costs remain unchanged under the current proposal. The Council's viability assessor for the current application was therefore instructed to adopt these costs. The £97,146 allocated to education was an estimate from the applicant at the time and is no longer relevant, please see S106 section for up to date details.
- 6.39 The application was originally submitted for a total of 72 dwellings. However in order to provide the £430,000 to fund a 3G artificial grass pitch on Charity Field the number of dwellings was increased by 13 to a total of 85 dwellings (71 for full planning permission and 14 for outline planning permission).
- 6.40 The viability assessment was undertaken and independently reviewed on the Council's behalf for 72 dwellings. The amended plans result in one of those dwellings being lost to provide access to the residential area containing the 14 dwellings seeking outline planning permission. The employment floor space proposed remains unchanged. This reduces the profitability of the proposal for the applicant by one dwelling and therefore represents a detriment to their stated profit. The original viability assessment is therefore considered acceptable in relation to the amended proposal.
- 6.41 The applicant concludes their proposed scheme generates a deficit of around £1.37million. The Council's viability assessor concluded in March 2020 that the proposed scheme generates a residual land value of around £4.04 million and when benchmarked against a site value of around £3.10 million the proposed scheme generates a surplus of around £0.94 million.
- 6.42 Following further discussion, primarily in relation to construction costs, an amended viability assessment was provided in May 2020. The Council's assessor adopted a general estate housing BCIS (Building Cost Information Service) cost rate due to the limited sample size of detached dwellings within the 5 year BCIS. However, they reflected upon this issue and as there is a greater range of data for detached housing within the Applicant's 15 year BCIS analysis they subsequently adopted the Applicant's cost rates.
- 6.43 The amended appraisal generates a residual land value of around £3 million and when benchmarked against a site value of around £3.10 million the proposed scheme generates a deficit of around £0.10 million. (This deficit is addressed by the £97,146 originally offered for education in the 'abnormals'). Consequently, the Council's assessor concluded that the proposed scheme cannot support any affordable housing. As detailed under the S106 section below the proposal also cannot support the requested education contribution which totals £955,835.20.
- 6.44 A clause in the S106 legal agreement will be required to limit occupation of the proposed houses until the abnormal infrastructure improvements are complete and supplied to the site of the proposed Business Park expansion.

Appearance

- 6.45 71 of the proposed houses are subject of a 'full' planning application. There is a variety of house types proposed which are all well proportioned with attractive design features such as brick detailing and plinths, projecting gables, chimneys, glazing bars, and porches. The materials comprise a traditional mix of red and buff brick, black boarding, with red and grey plain tiles. The detailed design and materials proposed are acceptable.
- 6.46 Up to 10,000sqm of commercial buildings and 14 dwellings seek outline planning permission with appearance reserved for later consideration. The indicative layout suggests these dwellings will use the same house types as the dwellings seeking full planning permission which would raise no concern. Indicative elevations of the commercial buildings show two

storey (9 metres high), shallow pitched buildings with glazed entrances constructed of white render and grey roofing and cladding panels. Their design reflects the wider Lanswood Business Centre and represents an acceptable design in this mixed residential and commercial area.

Layout

- 6.47 71 of the proposed dwellings seek full planning permission. The site is accessed from Grange Farm Close to the North and from this access point a view through to the woodland in the south of the site is retained. The layout maximises the benefits of the existing woodland with all properties in the south of the site fronting the open space and woodland beyond. The layout is spacious reflecting the location of the site with soft landscaping and tree planting adjacent to the roads to soften the appearance of the development.
- 6.48 The residential development is accessed through Grange Farm Close and does not have a frontage to Clacton Road. Saved Policy HG13 (echoed in emerging policy LP8) states proposals for the residential development of backland sites must comply with the following criteria:
- i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;
 - ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;
 - iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;
 - iv. the proposal does not involve "tandem" development using a shared access;
 - v. the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;
 - vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and
 - vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.
- 6.49 The main problems that can arise as a result of backland development include undermining the established character of an area; dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings.
- 6.50 However, as this proposal represents a comprehensive development it does not raise the usual concerns. There is a proper means of access which is considered safe and convenient for both drivers and pedestrians with turning areas to avoid the need for vehicles to reverse onto a public highway. As addressed elsewhere in this report the location of the site, although outside a settlement development boundary is considered sustainable and is not safeguarded for other uses. There is no material harm in relation to residential amenity, landscape harm or material harm to the character of the surrounding area as considered elsewhere within this report and the proposed development not having a frontage to Clacton Road does not therefore raise any material objection.
- 6.51 Initial concerns were raised in relation to separation distances between some of the plots and some undersized gardens. The general principle set out within the Essex Design Guide (EDG)

is that where the rear facades of properties face each other, a minimum spacing of 25m is required. The plans were amended and adequate rear separation is now provided.

- 6.52 Adopted Policy HG9 requires the following standards of private amenity space: three or more bedroom house minimum of 100sqm, two bedroom house minimum of 75sqm. Plots below this threshold are two bedroom Plots 1 (73sqm) and 2 (74sqm); and three bedroom plots 5 (91sqm), 6 (90sqm), 7 (93sqm), and 8 (92sqm). However, all other plots comply and a large proportion significantly exceed the standard with many around double the standard and some plots around four times the standard. The provision of private amenity space is therefore acceptable.
- 6.53 The layout confirms that each dwelling is provided with adequate private amenity space, off street parking and separation to prevent the development appearing cramped or overdeveloped. Soft landscaping of public areas around the site softens the appearance of the dwellings in the streetscene.
- 6.54 Up to 10,000sqm of commercial buildings and 14 dwellings seek outline planning permission with layout reserved for later consideration. The indicative layout provided reflects the main residential proposal, and the existing Lanswood Business Centre and raises no concerns at this time.

Scale

- 6.55 The housing mix for the 71 dwellings seeking full planning permission is 6 two bed houses, 44 three bed houses, 7 three bed bungalows, 11 four bed houses and 3 five bed houses. The indicative mix for the outline element is 3 two bed houses, 7 three bed houses, and 4 four bed houses.
- 6.56 The development comprises predominantly two storey dwellings, in keeping with the scale of existing dwellings and commercial buildings in the locality. The site is on a slope and street scene drawings and levels details have been provided to show how the development would sit in the landscape. At the lowest part of the site (east) there are bungalows and the details provided show how the development would sit acceptably in this sloping landscape.
- 6.57 Up to 10,000sqm of commercial buildings and 14 dwellings seek outline planning permission with scale reserved for later consideration. None of the indicative details provided raise any concern in relation to scale.

Highway Safety/Parking

- 6.58 71 houses seek full planning permission with separate access onto Clacton Road past Grange Farm Bungalow and the approved office development. Up to 10,000sqm of commercial buildings and 14 dwellings seek outline planning permission with access included for consideration.
- 6.59 Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.60 The vehicular access serving the outline element of the proposal is included for consideration and comprises the existing access into Lanswood Business Centre for the employment units,

and an access from within the main residential element for the 14 dwellings seeking outline planning permission. The detailed layout, appearance and parking for those 14 dwellings will be considered at reserved matters stage but the indicative layout raises no concern at this stage.

- 6.61 An amended site plan has been received which includes the access north of the proposed dwellings linking past Grange Farm Bungalow to the Clacton Road. Notice has been served on the landowners (J and T Hills). The applicant confirms the adjacent houses have rights of access and pay to maintain this road, which Hills then maintain so it is a private road but the neighbouring houses do not own it. The applicant adds if approved then the cost of the road would become liable across all the new dwellings it follows therefore that the existing properties would pay significantly less. These comments notwithstanding, this is a private issue outside of the grant of planning permission. The required certificate has been provided serving notice on the owners of the access road and that is all that is required for the planning application to be considered valid. Should planning permission be granted then the ownership of the access remains a civil issue to be resolved between the landowner and the developer and is not a consideration in the grant of planning permission.
- 6.62 The application has been submitted with a Transport Assessment to assess the impact of both the commercial proposal and the residential proposal on the existing highway network.
- 6.63 Essex County Council Highways has commented on the proposal and have no objection subject to conditions and a legal agreement to secure a financial contribution of £50,000 towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road; and £6000 workplace travel plan monitoring fee. MOVA (Microprocessor Optimised Vehicle Actuation) is a method of controlling the traffic signals based on the presence of vehicles detected on the approach to a signalised junction.
- 6.64 The conditions require: construction management plan; a preliminary design and Stage 1 Road Safety Audit outlining the proposed junction proposal for the residential development with Grange Farm Close and office development proposed opposite Grange Farm Close; 2 metre footway from the development to the two new bus stops on A133 Clacton Road; two new bus stops on A133 Clacton Road to be provided near Grange Farm Close junction to include but not restricted to shelter (x2) with bus stop flag, Kassel Kerbs and bus timetables; alterations to the existing refuge island near the Grange Farm Close junction to provide a crossing point for pedestrians to the new bus stop on the south-eastbound side with drop kerbs/ tactile paving and an affective 2-metre-wide footway to the bus stop; the upgrade of the two closest bus stops (known as Beth Chatto Gardens) on the A133 Clacton Road near Lanswood Park the improvements to include but not restricted to: bus stop flags, bus timetables, Kassel Kerbs and drop kerbs/tactile paving (x2) for the pedestrian crossing points; no discharge of surface water onto the Highway; car and cycle parking provided prior to occupation; workplace travel plan; and residential travel information packs.
- 6.65 These requirements are all secured within the recommended conditions in the interests of highway safety. The required footway, bus stops and refuge island upgrade are all in the highway so can be secured by condition and would also be covered by a S278 agreement with the Highway Authority.
- 6.66 Each dwelling is provided with two off street parking spaces, either on the driveway or in a garage, in accordance with the parking standards. 18 visitor car parking spaces as required are also provided to serve the 71 dwellings seeking full planning permission.

Landscaping

- 6.67 Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft

(June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

- 6.68 The application site comprises agricultural land and is not subject to any landscape designations. The northern boundary of the application site adjacent to the A133 is demarcated by an established, but gappy, hedgerow comprising primarily Elm, Hawthorn, Elder and Bramble. The most visually prominent tree on the application site is the Oak tree close to the existing access to Lanswood Park. On the western boundary there are 3 Lombardy Poplar and there is an established area of woodland, adjacent to Elmstead Brook on the southern part of the application site.
- 6.69 In order to show extent of the constraint that the existing trees, hedgerows and woodland have on the development potential of the land the applicant has provided a tree survey and report. In terms of the impact of the development proposal on the existing vegetation the proposals show that the boundary hedgerow will be retained and strengthened by new planting. The Oak at the front and the woodland to the south will be retained with the woodland potentially being improved by increased maintenance. It appears that the implementation of the development proposals will necessitate the removal of 3 Lombardy Poplar although this is not clear from the information provided. As they are located with the proposed commercial area layout and landscaping are reserved for later consideration so this can be addressed at that time. Whilst the retention of these trees would be desirable the contribution that they make to the amenity of the locality is only moderate and could be relatively easily replicated and improved upon by new soft landscaping.
- 6.70 With regard to the potential impact and effects of the development of the land on the local landscape character the applicant has submitted a Landscape and Visual Impact Assessment (LVIA). This quantifies the degree to which the change of use of the land associated with the development will cause harm to the local landscape character and sets out measures to mitigate that harm. The LVIA describes the impact and effects immediately following completion of the development and after a period of 15 years. In the Summary and Conclusion it states that: 'The landscape led approach to the development, including the protection and enhancement of existing site features, the design of buildings, and integration of strategic planting will ensure that the proposals will have a minimal residual effect on the landscape character of the area.'
- 6.71 This landscape led approach will contribute to the mitigation of harm resulting from this relatively large scale commercial and residential proposal. As confirmed in the Planning History section there have been residential refusals in this immediate area based upon landscape harm. However this harm has not been deemed grounds for dismissal by Inspectors at appeal. The site to the immediate east of the access from the main residential area onto the A133 had 18/00644/OUT refused in June 2018 and dismissed at appeal (APP/P1560/W/18/3208427) in July 2019 for 'Demolition of existing bungalow and erection of up to nine dwellings and associated garaging' at Grange Farm Bungalow. The Inspector confirmed the site is sustainably located and also referred to the changed character of the site: "Directly southeast of the site is a development of dwellings that have recently been constructed. These dwellings are all detached and display a degree of openness and spaciousness about them. Immediately to the northwest of the site permission has also been granted for an office development which is currently under construction. Thus, I do not consider that a development of additional dwellings between these two sites would fail to respect the character of the area, which has been the subject of change in the recent past." That appeal was dismissed solely in the absence of a legal agreement securing a RAMS contribution. The context of the site has changed significantly over recent years with planning permissions and allowed appeals for residential and commercial development and the proposal will be seen in that context. It is therefore not considered that a landscape harm objection could be sustained, particularly in light of the significant benefits of the proposal in terms of employment creation and new housing.

- 6.72 Full details of the hard and soft landscaping for the full permission (71 dwellings) are required by recommended condition, landscaping is a reserved matter so will be addressed at a later stage for the outline permission element.

Biodiversity

- 6.73 Saved Policies EN6 'Biodiversity' and EN6a 'Protected Species' of the adopted Tendring District Local Plan 2007 state that development proposals will not be granted planning permission unless existing local biodiversity and protected species are protected. A similar approach is taken in draft Policy PPL4 Biodiversity and Geodiversity of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.74 Paragraph 170 of the National Planning Policy Framework 2019 require that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst paragraph 174 requires Local Planning Authorities to safeguard components of local wildlife-rich habitats.
- 6.75 The site comprises predominantly agricultural land but abuts a woodland (Priority Habitat "lowland deciduous woodland") and has mature vegetation to the site boundaries. The woodland edge has been subject to an Arboricultural Impact Assessment and protective measures are recommended. The applicant has submitted a Preliminary Ecological Appraisal to assess the biodiversity value of the site and the impact upon any protected species.
- 6.76 The site is former farmland of moderate quality, with a species-poor hedgerow along the frontage, ornamental hedge along the eastern boundary and individual trees scattered to the west. Elmstead Brook, a shallow stream, flows along the southern boundary. The woodland to the immediate south is damp in character and consists of alder, ash, willow with occasional hawthorn and cherry. It represents a good resource for a wide range of legally protected species and wildlife generally and provides good onward habitat connectivity. The proposal is unlikely to directly impact this woodland. Mitigation measures, including protection of trees during construction, control of external lighting and managed public access are required to ensure a sustainable relationship with the development.
- 6.77 The agricultural barn beyond the north-eastern corner of the site has two bat boxes installed on the south-facing external wall. The mature oak tree to be retained on the north-western corner of the site contains several suitable bat roost features. Several trees within the wet woodland contain potential roost features. This woodland is likely to be unchanged as a result of the development. The hedgerow along the site frontage is likely to support nesting birds. The woodland will also support nesting birds in high numbers. The report confirms that potential for legally protected species on the development site is limited to nesting birds and badger (all setts are over 20 metres from the development site). American skunk cabbage an invasive non-native species was identified in the woodland. It is notable for its ability to out compete other plants, particularly in wet woodland. Once established the plant is very invasive, forming dense colonies which can spread by rhizome seed, water currents, birds and mammals. The development presents an opportunity for woodland management which could include the remediation of invasive species by licensed contractors.
- 6.78 Essex County Council Ecology have reviewed the proposal and have no objection subject to securing the RAMS contribution and conditions which form part of the recommendation. They support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The recommended conditions secure: compliance with the Preliminary Ecological Appraisal; A further badger survey and updated mitigation statement to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase; submission of a CEMP (construction environmental management

plan); submission of a Biodiversity Enhancement Layout; and submission of a wildlife sensitive lighting scheme which identifies those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging.

- 6.79 Subject to the recommended conditions the application is acceptable in relation to ecology and biodiversity.

Heritage

- 6.80 Policy EN23 Development within the Proximity of a Listed Building sets out that proposals for development that would adversely affect the setting of a Listed Building will not be permitted. This includes long distance views.
- 6.81 The listed buildings in closest proximity of the site are Hill Farmhouse (Grade II) located approximately 350m to the south east. To the south of Hill Farmhouse on the verge at the junction of Church Road is a late C19 cast iron metal Guide Post for the Parish of Frating (Grade II). Grove Farmhouse (Grade II) is located 800m to the west.
- 6.82 Hill Farmhouse is viewed in conjunction with the site at a distance of around 350 metres away. It is visible beyond the dwellings at Grange Farm Close when looking east along Clacton Road. When looking west from Hill Farmhouse there is a large amount of mature screening through which glimpses of the site will be possible. In the context of the existing office and residential development between the site and Clacton Road and the existing Lanswood Business Centre behind, the separation distance to the Grade II listed Hill Farmhouse, and the existing and proposed planting there would be no material harm to long distance views of the listed building or Guide Post on Frating Hill. Grove Farmhouse (Grade II) is 800 metres to the west and its setting will be unaffected by the proposal due to intervening buildings and mature vegetation.
- 6.83 Essex County Council Heritage have been consulted on the proposal and raise no objection.
- 6.84 Beth Chattos Gardens was added to Historic England's Register of Parks and Gardens of Special Historic Interest in England on 18th August 2020. *The Gardens Trust have now commented on the proposal as detailed in full above. They state "The development site is located on the south side of the A133 Clacton Road, where the land slopes down into the wooded valley of the Elmstead Brook. The new business units would be located near the existing ones close to the road. The gently sloping valley side would be the site of the housing. In this largely flat London Clay plateau, the valleys are of particular landscape importance. Further west in the valley are the Beth Chatto Gardens."*

"The proposed housing would not border directly onto the Beth Chatto Gardens. It would be screened from them by woodland, which would be continuous with (though not connected to) the Woodland Garden area at the east end of the Gardens, nor would the housing and the Gardens be intervisible. However, this is an area that seems to be under considerable development pressure. There is an existing approval for eight houses at Forres directly on the north side of the Gardens. The Lanswood application would see the intrusion of built form into the valley leaving the Gardens on the north side partially enclosed by housing. It would thus contribute to the incremental erosion of the wider setting of the Gardens. Setting is defined in the National Planning Policy Framework as the surroundings in which the heritage asset (i.e. the Gardens) is experienced."

They conclude "With the recent designation of the Gardens, your authority should recognise that the Gardens are one of the District's major attractions and amenities, of national importance. Their protection should therefore be a major concern. It is for your authority to decide whether the less than substantial harm to the setting of the Gardens by the housing is outweighed by any public benefit."

The site is separated from the listed gardens by the existing Lanswood Business Park and woodland so, as confirmed by The Gardens Trust, the sites are not intervisible. Beth Chattos is accessed via a long driveway which is approximately 0.2 miles west of the existing access to Lanswood Business Park with a large field between. Due to the significant separation distance and the intervening development and vegetation the impact upon the setting of the Grade II listed gardens is considered to be minimal. In weighing this less than substantial harm against the economic benefits of the proposal the public benefits in terms of job creation and new housing are considered to outweigh this harm.

Impact on Residential Amenity

- 6.85 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to secure a high standard of amenity for existing and future users. Policy QL11 of the adopted Tendring District Local Plan (2007) states that development will only be permitted if it will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives.
- 6.86 In terms of the future occupiers of the proposed dwellings they are provided with adequate private amenity space and separation distances to prevent any material loss of light, outlook or privacy.
- 6.87 The seven dwellings in Grange Farm Close are a minimum of 23 metres from the site boundary and a minimum of 56 metres from the closest proposed dwelling (Plot 7). Grange Farm Bungalow is 34 metres from the site boundary and 54 metres from the closest proposed dwelling (Plot 1). Grange Farm Cottage and Blue Barn Farm Cottages are semi-detached with a large detached outbuilding and frontage turning area and are located in the north eastern corner of the site. Their front elevation is around 36 metres from the site boundary and 42 metres from the closest proposed dwelling (Plot 9). The southern end elevation is around 20 metres from the site boundary and around 34 metres from the rear elevation of Plots 12 and 13. Existing dwellings are therefore adequately separated from the proposed dwellings to ensure adequate outlook, light and privacy which significantly exceeds the separation distances specified in the Essex Design Guide.
- 6.88 The access serving the residential element of the proposal for all 85 dwellings passes Grange Farm Bungalow at a separation distance of around 10 metres. Given the existing speed and noise generated by traffic on Clacton Road it is not considered that the use of the access would result in any material harm in terms of disturbance to justify refusing planning permission on these grounds.
- 6.89 The commercial element utilises the existing vehicular access between the existing and proposed commercial units and therefore is well separated from the nearest dwelling to the west which is around 100 metres from the commercial access.
- 6.90 The boundary treatment condition also requires provision of rear access lockable gates for plots 1-9 and 68-70 which have rear parking courtyards in the interests of increasing the safety and convenience of the rear parking areas.
- 6.91 Environmental Pollution have considered the proposal and are satisfied with the Contaminated Land Assessment which indicates that the risk of encountering contamination during development is low. As a result, no further work is recommended with respect to soil contamination. Due to the proposed dwellings close proximity to the proposed commercial development they request submission of a Noise Impact Assessment. A condition requiring submission of a construction method statement is also imposed in the interests of minimising disruption and pollution during construction.

Drainage

- 6.92 The site lies in Flood Zone 1 and the development area amounts to 8.37 hectares. Paragraph 163 of the National Planning Policy Framework 2019 (NPPF) states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and that major applications comprising a site area of 1 hectare or more should be supported by a site-specific flood-risk assessment (FRA). Paragraph 165 of the NPPF goes on to state that major developments should incorporate sustainable drainage systems.
- 6.93 Saved Policy QL3 of the adopted Tendring District Local Plan (2007) seeks to minimise and manage flood risk. In addition Saved Policy EN13 of the adopted Local Plan states that development proposals should incorporate measures for the conservation and sustainable use of water. These aims are carried forward into draft Policy PPL5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).
- 6.94 Essex County Council SUDS as Lead Local Flood Authority have reviewed the submitted Flood Risk Assessment and have no objection subject to the recommended conditions.
- 6.95 The application proposes foul sewage to the main sewer. Anglian Water confirm the foul drainage from this development is in the catchment of Thorington Water Recycling Centre that will have available capacity for these flows.
- 6.96 As no foul water strategy has been submitted with the application Anglian Water request a condition requiring an on-site drainage strategy to ensure the development does not lead to an unacceptable risk of flooding downstream.
- 6.97 Subject to the recommended conditions relating to foul and surface water the drainage aspects of the development are acceptable.

Section 106 of the Town and Country Planning Act 1990

- 6.98 The NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. These are set out and addressed below under the relevant sub-headings:
- Recreational Disturbance
- 6.99 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.
- 6.100 The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 3400 metres from the Colne Estuary SPA and Essex Estuaries SAC. New housing development within the Zoi would be likely to increase the number of recreational visitors to these designated sites; and, in combination with other developments it is likely that the proposal would have significant effects on the designated sites. Mitigation measures must therefore be secured prior to occupation.

6.101 The applicant has agreed to provide the required proportionate financial contribution (£10,674.30) in a legal agreement still to be completed. This will provide certainty that the development would not adversely affect the integrity of Habitats sites.

- Open Space and Play Space

6.102 Saved Policy COM6 and emerging Policy HP5 state 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.

6.103 There is currently a deficit of 4.51 hectares of equipped play/formal open space in Elmstead Market. A contribution towards play and open space is justified and relevant to this planning application. The Parish Council wish to build a 3G artificial grass pitch with sports lighting (61 x 43 m), 2623msq, at the site known as Charity Fields on School Road. Costings and specification have been provided from the Sport England website with the total cost of an U9/ U10/ training 60-65 mm 3G pitch, fenced, sports lighting (61 x 43 m) of £430,000.

6.104 The Supplementary Planning Document supporting saved Policy COM6 provides a calculation for the open space contribution based on the bedroom size of each proposed dwelling. In this case this amounts to £205,024.00.

6.105 In addition to this the applicant is offering an additional contribution of £224,976.00 which combined with the above open space contribution would provide the full cost of providing the 3G artificial grass pitch. This is a departure from saved Policy COM6 and is offered by the applicant in acknowledgement of the scale of the proposed development and its impact upon the Parish of Elmstead Market.

6.106 The applicant has agreed to provide the financial contributions in a legal agreement still to be completed.

- Affordable Housing

6.107 Saved Policy HG4 of the Tendring District Local Plan (2007) requires up to 40% of new dwellings on residential schemes of 5 or more units to be provided in the form of affordable housing to meet the needs of people that are unable to access property on the open market. Emerging Policy LP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) which is based on more up-to-date evidence of housing need and viability, requires for developments of 11 or more dwellings, the Council expect 30% of new dwellings to be made available to Tendring District Council or an alternative provider to acquire at a proportionate discounted value for use as affordable housing.

6.108 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 - 97 households, 3 bed - 68 households and 4 bed - 28 households.

6.109 30% equates to 26 dwellings. Given the demand for housing, the Council would prefer to see the 26 affordable dwellings delivered on site.

6.110 As confirmed by the viability assessment the proposal cannot provide any contribution towards affordable housing.

- Healthcare

- 6.111 Policy HP1 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft states that the Council will seek contributions towards new or enhanced health facilities from developers where new housing development would result in a shortfall or worsening of health provision.
- 6.112 NHS East Essex CCG were consulted on both the original and amended proposal and confirm they are not seeking a healthcare contribution as the impacted Practice (within the vicinity of the application site) is not currently over capacity.

- Education

- 6.113 Policy COM26 of the Tendring District Local Plan 2007 states where necessary planning permission will only be granted for residential developments of 12 or more dwellings if land and/or financial contributions are made to provide the additional school places that will be needed to service the development. Policy PP12 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 states planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education provision can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements.
- 6.114 Essex County Council request that if planning permission is granted it should be subject to a section 106 agreement to mitigate its impact on primary (£440,334) and secondary (£404,175) education, secondary school transport (£85,595), and libraries (£25,731.20). The total contribution requested is £955,835.20 as detailed below:
- 6.115 Essex County Council confirm a development of this size can be expected to generate the need for up to 7.65 Early Years and Childcare (EY&C) places; 25.5 primary school, and 17 secondary school places.
- 6.116 Early Years and Childcare As there are sufficient places available in the area, a developers' contribution towards new childcare places is not required for this application.
- 6.117 Primary Education This development sits within the priority admissions area of Elmstead Primary School. According to the Essex School Organisation Service's 'Ten Year Plan' to meet demand for school places, the local group of schools (Tendring Primary Planning Group 3) are already under pressure. Forecasts suggest growing demand for places over the Plan period with a potential need for around two forms of entry of additional capacity by 2028/29. The demand generated by this development would be in addition to this demand, therefore a developer contribution of £440,334 is sought to mitigate its impact on local primary school provision.
- 6.118 Secondary Education The local school would be Colne Community School and College, which has a Published Admission Number of 248 pupils per year. As of January, the school were full in three of the five statutory age year groups, including the cohort admitted last September. Forecasts, set out in the 10 Year Plan, suggest the school will again be full this coming September with increasing demand there-on-in. In response, a two form entry expansion is proposed. The demand generated by this development would be in addition to this demand, therefore a developer contribution of £404,175 is sought to mitigate its impact on local secondary school provision.
- 6.119 School Transport Given the proximity of the site to the nearest primary school, a primary school transport contribution is not sought and there is a public footpath linking the development to this primary school. Having reviewed the proximity of the site to the nearest secondary school, Essex County Council seek a secondary school transport contribution of £85,595.

6.120 Libraries ECC may seek contributions to support the expansion of the library service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications. In this case the suggested population increase brought about by the proposed development is expected to create additional usage of Wivenhoe library. As outlined in the adopted Essex Developers' Guide to Infrastructure Contributions (2016), a contribution is therefore considered necessary to improve, enhance and extend the facilities and services statutorily provided to account for the expected increase in number using these facilities. The requested contribution is £25,731.20.

6.121 As confirmed by the viability assessment the proposal cannot provide any contribution towards education.

- Highways

6.122 Essex County Council Highways has commented on the proposal and have no objection subject to conditions and a legal agreement to secure a financial contribution of £50,000 towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road. MOVA (Microprocessor Optimised Vehicle Actuation) is a method of controlling the traffic signals based on the presence of vehicles detected on the approach to a signalised junction.

- Provision of the abnormal infrastructure improvements

6.123 As detailed under the Viability section, a clause in the S106 legal agreement will be required to limit occupation of the proposed houses until the infrastructure improvements are complete (e.g. 50% occupation until half of the infrastructure improvements have been completed, and 75% occupation until all of the infrastructure improvements have been completed) and supplied to the site of the proposed Business Park expansion.

Archaeology

6.124 ECC Archaeology confirmed that the proposal has the potential to harm non-designated heritage assets with archaeological interest with cropmark evidence and evaluation within the adjacent site. The applicants were therefore required to carry out a programme of archaeological evaluation before the application could be determined. The evaluation succeeded in locating most of the cropmark features identified and provided sufficient evidence to determine the nature and significance of the archaeological remains and to make recommendations. A further phase of fieldwork and recording is required by condition in the recommendation.

7. Conclusion

7.1 This hybrid application seeks 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. Full planning permission is sought for 71 houses.

7.2 The proposal seeks to use the 71 dwellings seeking full planning permission to "enable" the expansion of the existing Lanswood Business Park due to infrastructure servicing the site reaching capacity. The viability of the proposal has been independently assessed and confirms that the proposal cannot provide the £955,835.20 education contribution or the 26 affordable dwellings. However, the applicant offers £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); and £50,000 towards the upgrade of traffic signals.

- 7.3 The report confirms that this is a sustainable location for development and the significant economic benefits of the proposal in providing up to 10,000 square metres of employment floor space, estimated to provide around 600 jobs, are considered to outweigh the modest landscape harm in this context of mixed residential and commercial development. The proposal does not provide the required contributions towards affordable housing or education on the grounds of viability and this is clearly a negative factor in terms of social sustainability and needs to be balanced against the significant economic benefits of the proposal. However, Officers are of the opinion that the economic benefits of the proposal, and the viability evidence provided, overrides the absence of contributions towards education and affordable housing and recommend that full and outline planning permission is granted.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant full and outline planning permission subject to the following conditions and informatives and the prior completion of a section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	£10,674.30 (£125.58 per dwelling)
Open Space	£430,000 for 3G artificial grass pitch at Charity Field
Highways	Financial contribution of £50,000 towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road
Highways	workplace travel plan monitoring fee £6,000
Provision of abnormals	Limit occupation of the proposed houses until the infrastructure improvements are complete (e.g. 50% occupation until half of the infrastructure improvements have been completed, and 75% occupation until all of the infrastructure improvements have been completed) and supplied to the site of the proposed Business Park expansion

8.2 Conditions and Reasons

8.3 Full planning permission

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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

Layout plan: PA_10_10 E.

House types: PA_20_01, PA_20_02, PA_20_03, PA_20_04, PA_20_04, PA_20_06, PA_20_07, PA_20_08, PA_20_09, PA_20_10, PA_20_11, PA_20_12, and PA_20_13.

Garages: PA_20_20, PA_20_21, PA_20_22, and PA_20_23.

Street scenes: PA_30_01 A and PA_30_02 A.

Section: PA_40_01 A

Transport Assessment dated February 2020 and Transport Assessment Addendum dated 21/07/2020 by Richard Jackson Ltd.

Preliminary Ecological Appraisal dated February 2020 by Hybrid-Ecology Ltd.

Landscape and Visual Appraisal dated February 2020 by SES.

Arboricultural Impact Assessment and Preliminary Method Statements dated 10/02/2020 by Tree Planning Solutions.

Site Specific Flood Risk Assessment dated February 2020 and Flood Risk Assessment Addendum dated 21/07/2020 by Richard Jackson Ltd.

Contaminated Land and Geotechnical Assessment dated 07/02/2020 by Nott Group.

Development Viability report by Fenn Wright dated January 2020 and addendum letter dated 07/04/2020.

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

3. No occupation of the development shall take place until the following have been provided or completed:
 - a) A preliminary design and Stage 1 Road Safety Audit outlining the proposed junction proposal for the residential development with Grange Farm Close. Details of which shall have been previously agreed in writing with the Local Planning Authority prior to commencement of the development.
 - b) An affective 2 metre footway shall be provided from the development to the two new bus stops on A133 Clacton Road.
 - c) Two new bus stops on A133 Clacton Road to be provided near Grange Farm Close junction to include but not restricted to shelter (x2) with bus stop flag, Kassel Kerbs and bus timetables.
 - d) Alterations to the existing refuge island near the Grange Farm Close junction to provide a crossing point for pedestrians to the new bus stop on the south-eastbound side with drop kerbs/ tactile paving and an affective 2-metre-wide footway to the bus stop.
 - e) The upgrade of the two closest bus stops (known as Beth Chatto Gardens) on the A133 Clacton Road near Lanswood Park the improvements to include but not restricted to: bus stop flags, bus timetables, Kassel Kerbs and drop kerbs/tactile paving (x2) for the pedestrian crossing points.

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

4. Prior to occupation the vehicle parking area (garage and/or driveway) serving that dwelling as indicated on the approved plans, shall have been provided. The vehicle parking area and associated turning areas and visitor parking shall thereafter be retained

in the approved form. 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 on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

5. Details of cycle parking for every dwelling without a garage shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason - To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

6. Prior to occupation the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, the details of which shall have been previously submitted to and approved in writing by the Local Planning Authority. The travel packs shall include six one day travel vouchers for use with the relevant local public transport operator.

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

7. Prior to commencement of any above ground works precise details of the provision, siting, design and materials of screen walls and fences shall have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the dwellings to which they relate being occupied and thereafter be retained in the approved form. Boundary treatments facing the highway or open spaces will be expected to be of high quality e.g. brick walls. This shall include rear access lockable gates for plots 1-9 and 68-70 which have rear parking courtyards.

Reason - In the interests of visual and residential amenity.

8. Details of the infrastructure improvements serving the business park expansion hereby granted outline planning permission shall be submitted to and approved in writing by the Local Planning Authority. The infrastructure improvements, as approved, shall be completed in accordance with the provisions of the S106 legal agreement.

Reason – The dwellings are approved in association with viability evidence on the basis that they fund the infrastructure improvements to serve the business park expansion.

9. Prior to commencement of any above ground works details of the proposed facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason – Insufficient details have been provided with the application, in the interests of visual amenity.

10. No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 - Trees in relation to design, demolition and construction "

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

11. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

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

8.4 Outline planning permission

12. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

13. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

14. No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the appearance, landscaping, layout and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

15. The development hereby permitted in relation to access only shall be carried out in accordance with the following approved plans and documents:

Layout plan: PA_10_10 E.

Transport Assessment dated February 2020 and Transport Assessment Addendum dated 21/07/2020 by Richard Jackson Ltd.

Preliminary Ecological Appraisal dated February 2020 by Hybrid-Ecology Ltd.

Landscape and Visual Appraisal dated February 2020 by SES.

Arboricultural Impact Assessment and Preliminary Method Statements dated 10/02/2020 by Tree Planning Solutions.

Site Specific Flood Risk Assessment dated February 2020 and Flood Risk Assessment Addendum dated 21/07/2020 by Richard Jackson Ltd.

Contaminated Land and Geotechnical Assessment dated 07/02/2020 by Nott Group.

Development Viability report by Fenn Wright dated January 2020 and addendum letter dated 07/04/2020.

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

16. No occupation of the development shall take place until the following have been provided or completed:
 - a) Alterations to the existing refuge island near the Grange Farm Close junction to provide a crossing point for pedestrians to the new bus stop on the south-eastbound side with drop kerbs/ tactile paving and an affective 2-metre-wide footway to the bus stop.
 - b) The upgrade of the two closest bus stops (known as Beth Chatto Gardens) on the A133 Clacton Road near Lanswood Park the improvements to include but not restricted to: bus stop flags, bus timetables, Kassel Kerbs and drop kerbs/tactile paving (x2) for the pedestrian crossing points.

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

17. Prior to occupation a workplace travel plan shall have been submitted to and approved in writing by the Local Planning Authority. Such approved travel plan shall be actively implemented for a minimum period of 5 years.

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

18. No goods, materials or containers shall be stored, stacked or deposited on the site outside the buildings, nor shall any commercial/manufacturing activities or processes (except for the loading and unloading of vehicles) be carried on outside the buildings, unless otherwise agreed in writing with the Local Planning Authority.

Reason - To protect the character and appearance of the area in the interests of visual amenity and the amenity of residents in the locality.

8.5 Both full and outline planning permissions

19. No development or preliminary groundworks can commence until a mitigation strategy detailing the excavation / preservation strategy has been submitted to and approved in writing by the local planning authority.

Reason – Because the proposal has the potential to harm non-designated heritage assets with archaeological interest.

20. No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.

Reason - Because the proposal has the potential to harm non-designated heritage assets with archaeological interest.

21. A post excavation assessment shall be submitted to the local planning authority for approval (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Local Planning Authority). This will result in the

completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report

Reason - Because the proposal has the potential to harm non-designated heritage assets with archaeological interest.

22. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and underbody washing facilities
 - v. prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence.

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.

23. There shall be no discharge of surface water onto the Highway.

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

24. Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The Construction Method Statement shall provide for:
- measures to control the emission of dust and dirt during demolition and construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - details of hours of deliveries relating to the demolition and construction of the development;
 - details of hours of site clearance and construction;
 - a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason - In the interests of residential amenity and highway safety and to reduce the likelihood of complaints of statutory nuisance.

25. Prior to commencement of any above ground works a Noise Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The Noise Impact Assessment shall assess the impact of the proposed commercial units upon the neighbouring dwellings hereby granted full and outline planning permission. Any necessary mitigation measures shall be detailed within the Noise Impact Assessment and implemented prior to occupation of the affected dwellings and retained as approved thereafter.

Reason - Due to the residential areas close proximity to the proposed commercial units.

26. Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall have been submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

Reason - To prevent environmental and amenity problems arising from flooding.

27. No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
- Limiting discharge to 3.3 l/s (greenfield 1 in 1 year rate which should be confirmed by greenfield calculations) for the residential site, for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
 - Discharge via infiltration for the commercial site for all storm events up to and including the 1 in 100 year rate plus 20% allowance for climate change.
 - Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development. To provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

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

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

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

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

Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

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

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

31. Prior to commencement of any above ground works precise details of the existing site levels, proposed site levels and finished floor level and eaves and ridge heights of the hereby permitted buildings in relation to site levels within adjacent sites and floors, eaves and ridge levels of neighbouring property shall be submitted to and approved in writing by the Local Planning Authority, and shall be implemented as approved unless the Local Planning Authority first gives written approval to any variation.

Reason - In the interests of visual amenity and privacy.

32. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020). 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 UK Habitats Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

33. No development shall take place (including any demolition, ground works, site clearance) until a further badger survey and updated mitigation statement has been submitted to and approved in writing by the local planning authority. This further survey shall be undertaken to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase. The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To conserve Protected species and allow the LPA to discharge its duties under the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

34. No development shall take place (including any demolition, ground works, site clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.
 - i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason - To conserve Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

35. Prior to commencement of any above ground works a Biodiversity Enhancement Layout providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020), shall have been submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details and all features 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 s40 of the NERC Act 2006 (Priority habitats & species).

36. Prior to occupation a lighting design scheme for biodiversity shall have been 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 contour plans, Isolux 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 UK Habitats Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

37. Works shall be carried out in full accordance with the Arboricultural Impact Assessment and Preliminary Method Statements dated 10/02/2020 by Tree Planning Solutions unless otherwise agreed in writing by the Local Planning Authority.

Reason – To protect existing mature vegetation on site.

8.6 Informatives

Highway Informatives

1. Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
2. All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
3. Where possible any new section of footway adjacent to the A133 should be set back from the edge of carriageway so pedestrians don't have to walk adjacent to the carriageway.
4. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Anglian Water informatives

1. Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.
2. Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.
3. Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.
4. Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087
5. The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.
6. An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.
7. In relation to the foul water condition the following will be required: Feasible drainage strategy agreed with Anglian Water detailing the discharge solution including:
Development size. Proposed discharge rate (Should you require a pumped connection, please note that our minimum pumped discharge rate is 3.8l/s). Connecting manhole discharge location (No connections can be made into a public rising main). Notification of intention to connect to the public sewer under S106 of the Water Industry Act. Feasible mitigation strategy in agreement with Anglian Water (if required).

SUDS Informatives

1. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
2. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
3. It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

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: Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) financial contribution, open space financial contribution, highway works including work place travel plan monitoring fee, and phased restriction on occupancy until infrastructure improvements are complete.

9. **Additional Considerations**

Public Sector Equality Duty (PSED)

- 9.1 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:
 - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 9.3 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
 - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 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.
- 9.6 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.
- 9.7 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

- 9.8 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.

- 9.9 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).
- 9.10 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

- 9.11 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.
- 9.12 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.

10. Background Papers

- 10.1 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/>.



Phase 2

PLANNING &
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