

THE ELMSTEAD NEIGHBOURHOOD PLAN  
2013 – 2033

JANUARY 2023

BASIC CONDITIONS STATEMENT

Published by Elmstead Parish Council  
under the Neighbourhood Planning (General) Regulations 2012 (as amended)

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## 1.INTRODUCTION

1.1 This statement has been prepared by The Elmstead Parish Council ("the Council") to accompany its submission of the Elmstead Neighbourhood Plan ("the Neighbourhood Plan") to the local planning authority, Tendring District Council ("TDC"), under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) ("the Regulations").

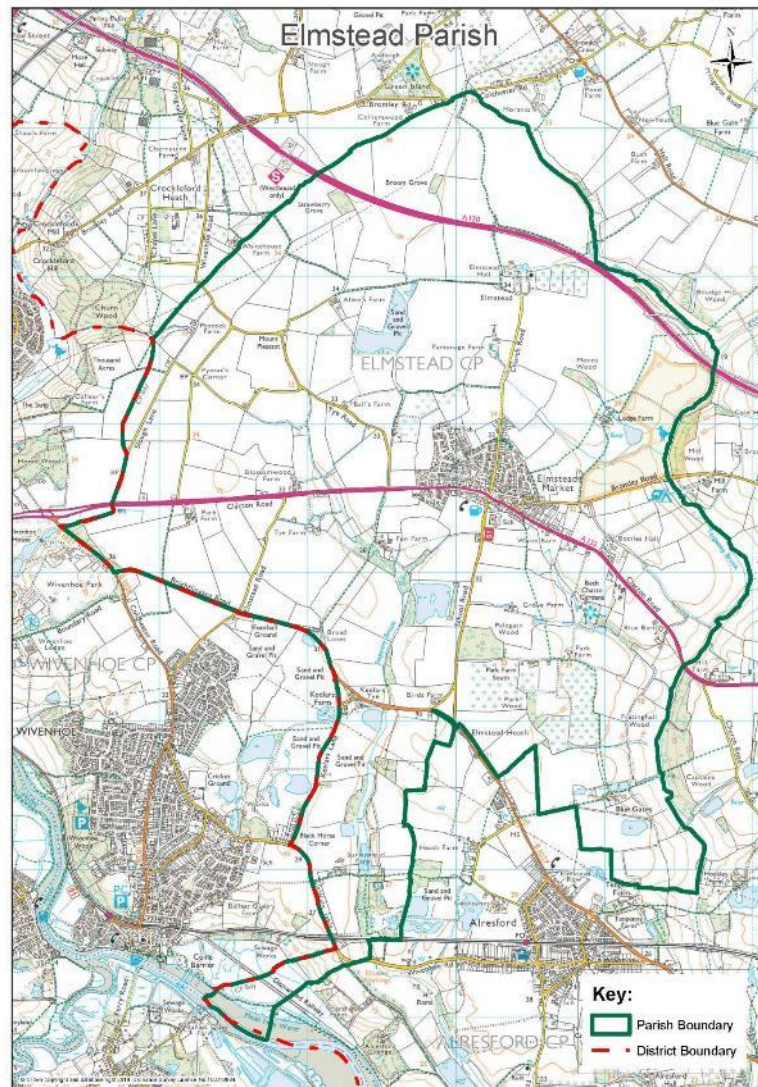
1.2 The Neighbourhood Plan has been prepared by the Parish Council, the 'Qualifying Body', for the Neighbourhood Area ("the Area"), which coincides with the boundary of the Parish of Elmstead shown on Plan A below. TDC designated the Area in November 2020.

1.3 The policies described in the Neighbourhood Plan relate to the development and use of land in the designated Area. They do not relate to 'excluded development', as defined by the Regulations. The plan period of the Neighbourhood Plan is from 2013 to 2033, the end date of which corresponds with the plan period of the Tendring Local Plan ("the Local Plan"). This will enable the two plans to neatly operate alongside each other and to be monitored and reviewed on a similar timeframe.

1.4 The statement addresses each of the 'Basic Conditions', which are relevant to this plan, required of the Regulations and explains how the submitted Neighbourhood Plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Town & Country Planning Act.

1.5 The Regulations state that a Neighbourhood Plan will be considered to have met the Conditions if:

- a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Development Plan,
- b) (Not relevant for this Neighbourhood Plan),
- c) (Not relevant for this Neighbourhood Plan),
- d) The making of the Neighbourhood Development Plan contributes to the achievement of sustainable development,
- e) The making of the Neighbourhood Development Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
- f) The making of the Neighbourhood Development Plan does not breach and is otherwise compatible with retained EU obligations.



Plan A: Designated Neighbourhood Area

1.6 The responsibility for determining if a Neighbourhood Plan has had regard to national policy and is in general conformity with strategic policy rests with a combination of the qualifying body, the local planning authority and the independent examiner (Planning Practice Guidance §41-070 and §410-074). Case law, established in the Tattenhall Neighbourhood Plan in 2014 (see §82 of EWHC 1470) but endorsed by the Courts on a number of occasions since, makes clear that:

*“... the only statutory requirement imposed by Condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted Development Plan as a whole ... any tension between one policy in the Neighbourhood Plan and one element of the ... Local Plan (is) not a matter for the Examiner to determine.”* (our emphasis)

1.7 The case acknowledged that there will often be tensions between different strategic policies when considered against the non-strategic policies of a specific local area covered by a Neighbourhood Plan. It sensibly concluded that such tensions can only be resolved by the qualifying body using its planning judgement to strike an appropriate balance across the plan as a whole. The examination tests the extent to which the qualifying body as exercised its judgement in a reasonable way. The fact that the local planning authority, in its representations on the plan, indicates that it would strike the balance differently, does not disable the qualifying body from doing so.

1.8 It is noted that the case law has not yet explicitly established the same principle for Condition (a) in respect of the regard to national policy, but it seems reasonable to expect the Courts would reach the same conclusion, given there will also be a range national policies influencing plan making, and that some of those policies may also be in tension. It is therefore expected that the examination of this Condition will take the same approach as Condition (e).

1.9 For these reasons, sections 3 and 5 of this Basic Conditions Statement highlight how policies of the Neighbourhood Plan are considered to meet Conditions (a) and/or (e), explaining how the qualifying body has exercised its judgement in those cases “where different parts of national policy need to be balanced” (§070) and how it has taken into account the criteria of §074 on general conformity. Finally, it explains how the Neighbourhood Plan as a whole meets Conditions (a) and (e).

## **2.BACKGROUND**

2.1 The decision to proceed with a Neighbourhood Plan was made by the Parish Council in 2020. The key driver of this decision was a sense of wanting to plan positively for the future of the Parish. Although a rural parish, there are major strategic allocations and strategic transport schemes within the Parish. The Parish Council considered that having a Plan would improve the way in which future development proposals are managed through expressing the identity of the existing village community.

2.2 A steering group was formed comprising local residents and Parish Council representatives. The group has been delegated authority by the Parish Council to make day-to-day decisions on the preparation of the Neighbourhood Plan. However, as the qualifying body, the Parish Council approved the publication of the Pre-Submission plan in July 2022 and the Submission Plan now.

2.4 The Parish Council has consulted local communities extensively over the duration of the project. It has also sought to work closely with officers of TDC to collate and examine the evidence base, to design and iterate policy proposals and to define the proper relationship between the Neighbourhood Plan, the Local Plan and the emerging Development Plan Document (DPD) being prepared for the Tendring Colchester Borders Garden Community extending into the Parish. The nature and outcome of these various publicity and consultation exercises are set out in the separate Consultation Statement.

2.8 The Neighbourhood Plan contains 18 land use policies (ELM1 – ELM18), which are defined on the Policies Map where they apply to a specific part of the Area. The Plan has deliberately avoided containing policies that duplicate adopted development plan policies or national policies that are already used to determine planning applications in the Area. The policies are therefore a combination of site-specific allocations or other proposals and of development management matters that seek to refine and/or update existing policies.

### 3. CONDITION (A): REGARD TO NATIONAL PLANNING POLICY

3.1 The Neighbourhood Plan has been prepared with full regard to national policies as set out in the National Planning Policy Framework (NPPF) and is mindful of the Planning Practice Guidance (PPG) in respect of formulating Neighbourhood Plans. In overall terms, there are a number of NPPF paragraphs that provide general guidance on neighbourhood planning, to which the Neighbourhood Plan has directly responded:

#### General Paragraphs

3.2 The Parish Council believes the Neighbourhood Plan “support(s) the delivery of strategic policies contained in local plans ... and ... shape(s) and direct(s) development that is outside of these strategic policies” (§13). It considers the Neighbourhood Plan contains only non-strategic policy proposals or proposals that refine strategic policy to fit the circumstances of the Area without undermining the purpose and intent of those strategic policies (§18). It considers that the Neighbourhood Plan sets out more “detailed policies for specific areas” including “the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies” (§28).

3.3 The Parish Council considers that its Neighbourhood Plan has provided its communities the power to develop a shared vision for the Area that will shape, direct, and help to deliver sustainable development, albeit in a modest way, by influencing local planning decisions as part of the statutory development plan. The Neighbourhood Plan contains no site allocation proposals nor any other policies that will unreasonably result in less development than set out in the strategic policies for the area (§29). In this regard, the District Council has confirmed that the ‘housing requirement figure’ for the Parish is zero in accordance with the NPPF provisions of meeting local housing needs (as per §66). Through choosing not to make any housing site allocations, it is accepted that the provisions of §14 will not apply. The Plan is underpinned by relevant and up-to-date evidence. This is considered to be adequate and proportionate, focused tightly on supporting and justifying the policies concerned (§31).

#### Specific Paragraphs

3.4 Each policy engages one or more specific paragraphs of the NPPF. Those that are considered to be of the most relevance and substance are identified in Table A below.

<b>Table A: Neighbourhood Plan &amp; NPPF Conformity Summary</b>
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No.	Policy Title	NPPF Ref.	Commentary
ELM1	Settlement Development Boundaries	15, 16, 66, 78, 120, 174	<p>Settlement Boundaries are planning policy tools that are a well-established and a fundamental means of enabling the plan-led system to operate effectively (§15) by distinguishing the built up area of the settlements in the Parish from the surrounding countryside (§174) providing clarity so that it is evident how the decision maker should react to proposals (§16). The boundaries have been drawn following the conventions used by TDC, that also use this policy tool.</p> <p>Although TDC has confirmed that the 'housing requirement figure' for Elmstead is zero (§66), defining the boundaries will assist in directing the location of any future proposals for rural exception sites (§78) and support opportunities for using suitable brownfield land for homes and other identified needs (§120).</p>
ELM2	Protecting the setting of Elmstead Market	174, 189	<p>The policy defines a valued landscape buffer between the village of Elmstead Market and the new proposed Tendring Colchester Garden Community contributing to conserving the natural environment by protecting this valued landscape in a manner commensurate with its identified quality in the evidence base (§174) as well as conserving heritage assets contained within this landscape (§189).</p> <p>Although the defined landscape buffer spans across open countryside, proposals which are suited to the open countryside, including exception sites, could still come forward. In those cases, the policy seeks to ensure that development proposals understand and respond to the value of the landscape buffer in maintaining the identity and landscape setting of Elmstead Market when determining their developable area, layout, built form and landscaping strategies.</p>
ELM3	Gaps between settlements	174	<p>The policy sets out the way in which proposals in key locations in the Parish will conserve its natural environment. It contributes to conserving the natural and local environment by protecting a specific type of valued landscapes in a manner that is commensurate with their identified quality in the evidence base (§174). The goal of preventing the visual or physical coalescence of settlements is a long-established principle in development plan making, even if the quality of the land itself is unremarkable.</p> <p>The evidence base identifies a local gap and a couple of corridors that serve this essential purpose and are valued by the local community for that reason. The policies seek to ensure that development proposals understand and respond to the value of the local gap and each corridor in maintaining the separate identity of the settlements when determining their developable area, layout, built form and landscaping strategies.</p>
ELM4	The former Elmstead Community Centre	62, 70, 78, 93	<p>The site is currently being used as a community centre, however the use of the site as a community centre will cease as soon as a new community centre, being provided on land opposite the existing site, becomes operational. The policy therefore only supports the site being used for residential development upon the delivery and operation of the new community centre. The ability of the local community to meet its day-to-day needs will therefore not be reduced in line with the provisions of §93 of the NPPF. Rather, the use of this surplus community use site has provided the local community with the opportunity</p>



			to provide much needed smaller affordable homes to meet a local need, in line with the provisions of §62 and §78 of the NPPF. By utilising this site for residential use, this policy acknowledges §70 regarding small and medium sized sites suitable for housing. An NDO is being brought forward alongside this Neighbourhood Plan to grant planning permission for an outline scheme of this nature. The Parish Council, as landowners, is currently negotiating with a delivery partner to bring forward a reserved matters scheme.
ELM5	Affordable Housing	58, 62, 63, 64	This policy specifies a starting point for the types of affordable housing that is needed in the Parish as guided by the evidence base (§62, §63) and seeks to lower the affordable housing threshold for the Designated Rural Area of Elmstead outside of the Tendring Colchester Borders Garden Community, as per the provisions of §64. The adequate and proportionate viability evidence of the recently adopted Tendring Local Plan Part 2 indicates that this lower threshold ought to continue to result in surplus and therefore the Parish Council does not consider that viability is a limiting factor (§58).
ELM6	First Homes	58	The policy defines a higher minimum discount, at a 40% discount from full open market value, for First Homes outside the Tendring Colchester Borders Garden Community, as guided by the evidence base. Whilst the requirements for First Homes has not yet been translated into the NPPF it has been required by a Written Ministerial Statement of 24 May 2021 and Planning Practice Guidance provides neighbourhood planning groups the discretion to require a higher minimum discount (Paragraph: 004 Reference ID: 70-004-20210524). The adequate and proportionate viability evidence of the recently adopted Tendring Local Plan Part 2 indicates that this higher minimum discount ought to continue to result in surplus and therefore the Parish Council does not consider that viability is a limiting factor (§58). In any event, Policy ELM5 makes provision for a mix of affordable homes as a starting point for applicants to respond to in the design of their schemes.
ELM7	Housing Mix	62, 78	The evidence base illustrates that there is a need for more smaller housing to accommodate first time buyers and those looking to downsize. In response to this, the policy seeks to ensure that proposals for new residential developments, including rural exception sites (§78) prioritise a majority 1 and 2 bedroom dwellings (§62).
ELM8	Zero Carbon Buildings	152, 154	The policy encourages the transition to a low carbon future in a changing climate. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience and to support renewable and low carbon energy and associated infrastructure (§152). It encourages new development to be planned for in ways that help to reduce greenhouse gas emissions, such as through its location, orientation and design (§154). Applicants can continue to choose to bring forward schemes that meet TDC's policy standards, but must demonstrate that there is no performance gap through post occupancy evaluation. There is therefore no requirement to meet the PassivHaus standard but an incentive as this, or an equivalent, standard, guarantee no performance gap if certified, and is therefore not subject to a post occupancy evaluation.  The avoidance of making zero carbon a requirement – no matter how much recent events are proving

			its absolute long term worth for energy bills and climate change mitigation – reflects current Government policy, irrespective of the Climate Change Act and all other contradictory policy announcements on this matter over the last couple of years. For this same reason, viability is not an issue. To be clear, the policy is drafted in a way that does not engage the 2016 Written Material Statement on the subject, which although now out-of-date and superseded by any number of subsequent Government policy statements, continues to be alleged as a means of preventing neighbourhood plans from contained any meaningful policy covering this agenda.
ELM9	Design Codes	126, 127, 128	This policy, through the appended Design Code, defines the special qualities of the village and is intended to ensure that these qualities shape future development in the village, as per §126 and §127. The design expectations are made clear but are not intended to be overly prescriptive, so allow for innovative design solutions (§128).
ELM10	Important Views	174, 190	The policy identifies a number of key views which also contribute to the appreciation of the special landscape and scenic qualities of the area (§174) as well as aspects of its historic environment (§190). Whilst the policy will not prevent developments that lie within a view, it requires that proposals recognise and take account of these in their design. It reflects the Government's objective to conserve and enhance the natural and historic environment and to pursue these objectives at a local level (§174 and §190).
ELM11	The Village Core	84	This policy defines the Village Core and Village Centre boundaries to retain and develop essential local services and facilities and an important meeting place for the village, in line with the provisions of §84.
ELM12	Movement and Connectivity	104, 106	These policies encourages transport issues to be considered from the earliest stages of development (as per §104) proposals so that the potential impacts on the highway network are understood and opportunities to promote walking and cycling and highway safety are identified and pursued. Policy ELM12 identifies the existing Active Travel Network on the Policies Map for the purposes of supporting active travel in the Parish. By also identifying opportunities for footpath and multi use route expansion or improvement, this policy runs in line with §106, which supports identifying and protecting routes for widening transport choice. Policy ELM13 identifies locations where investment in traffic management proposals can improve the walking and cycling environment to promote its use.
ELM13	Managing Traffic		
ELM14	Local Green Spaces	101, 102, 103, 143	The policy designates a series of Local Green Spaces in accordance with §101 - §103 of the NPPF. A designation has the policy effect of the equivalence of the Green Belt (§103) in terms of the definition of 'inappropriate development' and of the 'very special circumstances' tests in the NPPF when determining planning applications located within a designated Local Green Space. All of the Local Green Space candidaes, provided by the evidence base, have been tested against the criteria of §102 to achieve designation and landowners have been consulted. Each of these designations are also capable of enduring beyond the plan period in line with §143.
ELM15	Green Ring	153, 154, 174, 175, 179	This policy establishes a Green Ring, and defines its broad locaiton on the Policies Map recognising the NPPF's acknowledgement of this type of infrastructure as serving many simultaneous purposes, from

			providing a local recreational asset, to enhancing biodiversity, protecting visual amenity and adapting to climate change. It requires development to respond to it in bringing forward any future proposals.
ELM16	Nature Recovery	153, 154, 174, 175, 179	The policy defines the Green Infrastructure network as one means of ensuring the future resilience to climate change impacts and to support nature recovery (§153 and §174). The policy contributes to and enhances the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures through identifying, mapping and safeguarding these components. It is therefore consistent with the aims of §174 and §179 in these respects.
ELM17	Health and Wellbeing Service Provision	92	This policy recognises that new residential developments would place further pressure on the Elmstead Surgery in line with recent decisions on planning applications in Elmstead made by TDC. In light of this, new residential development proposals will only be permitted where they provide or improve the delivery of essential health and/or wellbeing facilities and services required to serve the scale of the development proposed in line with §92.
ELM18	Local Community Uses	93	This policy seeks to protect popular and cherished social, recreational and cultural facilities across the parish whilst supporting those facilities to develop and modernise providing it does not result in the unnecessary loss of valued facilities in line with §93.
















3.5 It is considered that all the policies have had full regard to national policy, with no incidence of two or more national policies being in tension nor of the Parish Council having to strike a balance between them. As a result, the Neighbourhood Plan, as a whole, meets Condition (a).

## 4. CONDITION (D): CONTRIBUTING TO ACHIEVING SUSTAINABLE DEVELOPMENT

4.1 As neither a Sustainability Appraisal nor Strategic Environmental Assessment Report have been required of the Neighbourhood Plan, the Statement sets out in Table B below how each of the policies contribute to the achievements of sustainable development. It does so by identifying the potential of each policy to lead to significantly positive (dark green), moderate positive (light green), neutral (yellow), moderate adverse (light red) or significant (dark red) adverse effects.

Table B: Neighbourhood Plan & Sustainable Development					
Policy		Social	Economic	Environmental	Commentary
ELM1	Settlement Development Boundaries	Yellow	Yellow	Light Green	The physical containment of the settlements will ensure that its historic and rural character, and the surrounding landscape will be protected, leading to a moderate environmental effect. There continue to be opportunities within the settlement boundaries, as well as opportunities for rural exception sites to come forward. Its social and economic effects are neutral.
ELM2	Protecting the Setting of Elmstead Market	Light Green	Yellow	Dark Green	The policy will have a significant positive environmental effect and a moderate social effect in defining and protecting the valued characteristics of the defined Green Landscape Buffer and providing access to the countryside. Its economic effect is neutral.
ELM3	Gaps Between Settlements	Light Green	Yellow	Dark Green	The policy will have a significant positive environmental effect and a moderate social effect in maintaining the separate identities of the villages in the Parish by preventing their visual coalescence. Its economic effect is neutral.
ELM4	The Former Elmstead Community Centre	Dark Green	Yellow	Yellow	These policies will have a significant positive social effect in starting to address the current imbalance in the range of housing types in the village including the growing need for affordable housing. In the case of Policy ELM4, the replacement community centre avoids a negative effect as it is being replaced by a new community facility nearby and is no longer needed as such. Its economic and environmental effect is neutral.
ELM5	Affordable	Dark Green	Yellow	Yellow	

	Housing	■	■	■	
ELM6	First Homes	■	■	■	
ELM7	Housing Mix	■	■	■	
ELM8	Zero Carbon Buildings	■	■	■	The policy encourages the use of the PassivHaus standard (or equivalent) for all new buildings as a primary means of tackling climate change and the energy crisis in the coming years. For those projects that choose not to meet that standard (for as long as national policy allows it) then it requires that the lower energy performance standards of the proposed buildings are at least achieved post construction. Not only will this lower the adverse environmental effect of new buildings, it will also significantly lower energy bills for occupiers. It also requires an assessment of how the scheme will reduce embodied carbon over its lifetime. It therefore aims to have positive effects in all respects.
ELM9	Design Codes	■	■	■	The policy will have a significant positive environmental effect and a moderate social effect in conserving the essential character of the village, and some of its history, which local people care about. Its economic effect is neutral.
ELM10	Important Views	■	■	■	This policy will have a significant positive environmental effect though preserving and enhancing the local character of the landscape. Its social and economic effect is neutral.
ELM11	The Village Core	■	■	■	The policy will have significant positive social and economic effects in seeking to protect the critical mass of shops and services in the village centre and promoting it as a meeting place. Its environmental effect is neutral although it will reduce people travelling out of the area to meet their day to day needs.
ELM12	Movement and Connectivity	■	■	■	The policy contains a series of proposals to reduce the dependency of the local community on vehicles for moving around the Parish. This will have positive social effects (in encouraging and enabling healthier lifestyles) but also environmental effects in reducing the need for car-based trips. It is neutral in its economic effects.
ELM13	Managing Traffic	■	■	■	The policy will have significant positive environmental and social effects in improving the public realm in the village centre and other popular locations in the Parish to encourage walking, cycling and recreation in safe and pleasant surroundings. As a result, it will have a moderate economic benefit in encouraging the use of local shops and services in those locations.
ELM14	Local Green Spaces	■	■	■	The policy will have a significant positive social effect in protecting a range of publicly accessible open spaces within the villages from inappropriate development. The policy will have a moderate

					environmental effect as some but not all the spaces have some environmental (e.g. biodiversity, heritage) value. Its economic effect is neutral.
ELM15	Green Ring				Similarly to ELM14, the policy will have a significant positive social effect in seeking to ensure that future development responds to the vision to create a Green Ring around the village that connects its most valuable recreational spaces to create a circular walk. The policy will have a moderate environmental effect as some but not all the spaces have some environmental (e.g. biodiversity, heritage) value. Its economic effect is neutral.
ELM16	Nature Recovery				The policy establishes a coherent green infrastructure network of a variety of asset types which anticipates national policy initiatives like biodiversity net gain and local nature recovery. Given some are publicly accessible assets and enjoyed by the local community, it aims to have a positive social as well as environmental effect and is neutral in its economic effect.
ELM17	Health and Wellbeing Service Provision				The policy will have a significant positive social effect in protecting the community services and facilities, including its health and wellbeing services at Policy ELM17, that are well used and cherished by the village communities. Its economic and environmental effects are neutral.
ELM18	Local Community Uses				

## 5. CONDITION (E): GENERAL CONFORMITY WITH THE STRATEGIC POLICIES OF THE DEVELOPMENT PLAN

5.1 The Neighbourhood Plan has been prepared to ensure its general conformity with the development plan for the district, that is primarily the adopted Tendring District Local Plan 2013-2033 and Beyond: North Essex Authorities' Shared Strategic Section 1 Plan and Tendring District Local Plan 2013-2033 and Beyond Section 2, both of which also cover the period to 2033. In doing so, the Parish Council has worked closely with TDC with the aim of ensuring that both consider this basic condition has been fully met. The Parish Council has also been mindful of the provisions of the Essex and Southend-on-Sea Waste Local Plan 2017 and the Essex Minerals Local Plan 2014 which also forms part of the development plan.

5.2 Most areas of the Neighbourhood Plan Area are within a Mineral Safeguarding Area due to the presence of sand and gravel deposits beneath the ground. These areas are subject to a minerals safeguarding policy (Policy S8 of the Essex Minerals Local Plan), which seeks to prevent deposits being unnecessarily sterilised by non-mineral development. However, the housing proposals contained in the Neighbourhood Plan fall below the site size threshold at which the provisions of Policy S8 are engaged. Policy S8 of the Essex Minerals Local Plan identifies a number of Minerals Safeguarding Areas in the parish due to the presence of sand and gravel deposits beneath the ground. These areas seeks to prevent deposits being unnecessarily sterilised by non-mineral development. However, the housing proposals supported by Policy ELM2 in the Neighbourhood Plan fall below the site size threshold at which the provisions of Policy S8 are engaged.

5.3 Within the Neighbourhood Plan Area there are Mineral Consultation Areas in relation to Elmstead Hall Quarry and Wivenhoe Quarry. These areas are subject to Policy S8 of the Essex Minerals Local Plan, which establishes Mineral Consultation Areas at a distance of 250m around permitted, allocated and existing mineral infrastructure. There is also a Waste Consultation Area in relation to Ardleigh Waste Transfer Station. This area is subject to Policy 2 of the Essex and Southend-on-Sea Waste Local Plan, which establishes Waste Consultation Areas at a distance of 250m (400m in the case of Water Recycling Centres) around permitted, allocated and existing waste infrastructure. Essex County Council as the Minerals and Waste Planning Authority must be consulted on all applications for non-waste development proposed within these areas. Essex County Council is currently undertaking a Minerals Local Plan Review. As minerals and waste matters are 'excluded development' for Neighbourhood Plans, the Parish Council, where necessary, will engage in the Minerals and Waste Local Plan preparation process.

5.3 A consultation on a draft Development Plan Document (DPD) for the Tendring Colchester Garden Community extending into the parish recently ended. In accordance with Planning Practice Guidance (§ 41-009), this Statement does not seek to demonstrate general conformity with the policies of this emerging DPD. However, it is noted that the proposals and evidence base for the Tendring Colchester Garden Community have been used to inform the Neighbourhood Plan.

5.4 Elmstead Market is defined as a 'Rural Service Centre' in the settlement hierarchy in the adopted Local Plan Part 2. The Local Plan makes no development allocations in the neighbourhood area but the area of search for the Tendring Colchester Garden

Community extends into the designated neighbourhood area. A summary assessment of the general conformity of each policy, and its relationship with adopted policy where relevant, is contained in Table C below.



**Table C: Neighbourhood Plan & Development Conformity Summary**

No.	Policy Title & Refs	Commentary
ELM1	Settlement Development Boundaries	<p>The definition of settlement boundaries remains an important feature of Tendring's Local Plan Part 2 in distinguishing how planning applications are considered if they relate to land inside or outside a boundary. The policy is consistent with Local Plan Part 2 Policies SPL1 Managing Growth and SPL2 Settlement Development Boundaries in only supporting housing development within the newly defined boundaries, as Elmstead Market is defined as a Rural Service Centre where new development will occur through the completion of existing planning permissions, unidentified 'windfall' sites within settlement development boundaries or through Rural Exception Sites where a need has been identified.</p> <p>The policy also refines Policy SPL2 Settlement Development Boundaries to make it clear that outside of these defined settlement boundaries development will only be supported if they accord with policies managing development in the open countryside to provide certainty to applicants and the community and to recognise the valued function of the countryside in shaping the rural character of Elmstead.</p>
ELM2	Protecting the Setting of Elmstead Market	<p>The policy complements the Strategic Gap provisions of Policy PPL6 of Tendring's Local Plan Part 2 by identifying land that will separate the village settlement Elmstead Market from the Tendring Colchester Garden Community. The evidence base demonstrates that the land included within the Green Landscape Buffer is that where development would contribute significantly to the effect of visual coalescence between two settlements. It does not incorporate land within a settlement boundary and so does not hinder appropriate infill development, nor does it prevent development or uses suited to the open countryside and those which would not compromise the functions of the Green Landscape Buffer. The policy also seeks to encourage positive landscape change in accordance with Policy PPL3 of Tendring's Local Plan Part 2.</p>
ELM3	Gaps Between Settlements	<p>The policy gives local effect to Local Plan Part 2 Policy PPL3 which seeks to protect and reinforce the positive landscape qualities of the rural landscape by refining it to identify at a more local scale the specific local important that the local gap and corridors between settlements have in defining those settlements. The policy also seeks to encourage positive landscape change in accordance with Policy PPL3.</p>
ELM4	The Former Elmstead Community Centre	<p>There is a need to relocate this type of facility to address the weaknesses of the current location and buildings, but to retain its provisions as an essential community facility serving the Parish. The New Elmstead Community Centre (NECC) is anticipated to meet this need. The provision of this NECC is therefore a replacement facility within the vicinity of the Former Elmstead Community Centre (FECC) and will not lead to a shortfall in provision in line with the requirements of Policy HP2 Community Facilities. The policy therefore establishes the principle for residential use on this site to deliver an affordable housing scheme (in line with Policy LP5) to meet local needs once the NECC has become operational.</p>
ELM5	Affordable Housing	<p>In the first instance, the policy lowers the minimum threshold at which affordable housing must be delivered by residential schemes from the 11 or more (net) homes outside of the Tendring Colchester Borders Garden Community of Policy LP5 Affordable Housing of Tendring's Local Plan Part 2 to 6 or more (net) homes given that Elmstead has been designated as 'rural' under Section 157 of the Housing Act 1985 (SI 2005/1995). This is provided for by §64 of the</p>

		<p>current NPPF which was originally introduced in 2018 (which post-dates the 2012 NPPF under which the Tendring Local Plan Part 2 was examined and therefore makes no provision for this).</p> <p>The Inspector's report on Tendring's Local Plan Part 2, issued 24 November 2021, recognises in paragraph 116 that “At the hearing sessions we heard evidence as to the historically weak rate of delivery of affordable housing and the high level of need in the district” and recommended modifications to the Local Plan which seek to maximise the delivery of affordable housing on site. The policy therefore also requires that the affordable homes should be delivered on site, which accords with the approach of Policy LP5 Affordable Housing of Tendring's Local Plan Part 2. However, it may be agreed that a preferable delivery strategy to optimise the value of affordable homes to the village is to consolidate them on one site. If that is the case, then a scheme may make a financial contribution to that other scheme. If an applicant considers there is a need for an element of market housing to deliver a viable scheme, then this will be addressed through the existing provisions of Policy LP5 Affordable Housing of Tendring's Local Plan Part 2.</p> <p>Tendring's Local Plan Part 2 Policy LP5 Affordable Housing was prepared prior to the introduction of the new 'First Homes' affordable housing product by the Government in summer 2021. First Homes are a specific discounted market sale housing and meet the definition of 'affordable housing' for planning purposes. Planning Practice Guidance now requires that a minimum of 25% of all affordable housing units secured through developer contributions should be First Homes and that they (and the mechanism securing a discount in perpetuity) will be secured through section 106 planning obligations.</p> <p>The second and third part of the policy therefore makes provision for First Homes and requires a specific tenure mix for affordable housing provision on qualifying sites and wholly affordable sites respectively as guide by its evidence base which may come forward in Elmstead during the plan period. If an applicant considers there is a need for an element of market housing on sites outside of the settlement boundaries to deliver a viable scheme, then this will be addressed through the existing provisions of Policy LP6 Rural Exception Sites of Tendring's Local Plan Part 2.</p>
ELM6	First Homes	Whilst there is no direct policy provision relating to First Homes in Tendring's Local Plan Part 1 and 2, the policy reflects the guiding principle of Tendring's Local Plan Part 2 Policy LP5 which seeks to help those who cannot afford housing on the open market.
ELM7	Housing Mix	Tendring's Local Plan Part 2 Policy LP2 Housing Choice adopts a flexible approach to housing mix, and states that TDC will work with the development industry and housing providers to deliver a mix of dwelling types, sizes and tenure to address local requirements. The policy therefore gives local effect to Policy LP2 by setting a specific requirement for all new homes in the Parish as a starting point specific to the designated neighbourhood area.
ELM8	Zero Carbon Buildings	The policy complements Policy SPL3 Sustainable Design of Tendring's Local Plan Part 2 but refines its requirements to bring this policy context up to date with contemporary thinking and national policy provisions for tackling climate change through the energy performance of new buildings.
ELM9	Design Codes	The policy compliments Policy SP7 Place Shaping Principles of Tendring's Local Plan Part 1, which specifically references Design Codes and highlights the importance of new developments responding to and enhancing the

		quality of the existing environment. The policy also places additional local emphasis to the design quality principles of Tendring's Local Plan Part 2 Policy SPL3 Sustainable Design by highlighting the particular characteristics of the Parish.
ELM10	Important Views	The policy gives local effect to Local Plan Part 2 Policy PPL3 which seeks to protect and reinforce the positive landscape qualities of the rural landscape by refining it to identify at a more local scale the specific local important views to prevent development that would compromise their special value.
ELM11	The Village Core	The policy refines Tendring's Local Plan Part 2 Policy PP3 in establishing how proposals can enhance the village centre. The policy continues to protect uses which contribute to meeting day-to-day needs within a defined village core as per Policy PP3, but also recognises that change surrounding this core will impact the way in which the area is used. It therefore establishes the approach to development within this wider village centre area which contributes to the vitality of the village core in line with the guiding principle of Policy PP3.
ELM12	Movement and Connectivity	The policy seeks to encourage safe, accessible and convenient means of walking, cycling and horse riding through the Parish. It refines Tendring's Local Plan Part 1 Policy SP6 Infrastructure and Connectivity by providing a local element to its provisions in terms of seeking an attractive, safe, legible and prioritised walking/cycling environment. Policies CP1 Sustainable Transport and Accessibility and CP2 Improving the Transport Network of Tendring's Local Plan Part 2 support developments which contribute and provide access to sustainable modes of transport, including walking, cycling and public transport.
ELM13	Managing Traffic	The policy identifies Key Locations where there are opportunities for traffic mitigation measures and public realm improvements to make walking and cycling more pleasant as a means by which traffic management effects and measures are tackled and invested in by development proposals. It operates alongside Policy ELM12 in seeking to encourage walking and cycling and refines Tendring's Local Plan Part 1 Policy SP6 Infrastructure and Connectivity by providing a local element to its provisions.
ELM14	Local Green Spaces	The supporting text of Local Plan 2 Policy HP4: Safeguarded Open Space makes provision for Neighbourhood Plans to designate open spaces of particular local value as 'Local Green Space' which are afforded an additional level of protection, ruling out new development other than in very special circumstances. To achieve designation, Local Green Space candidates will have to meet the criteria set out in NPPF §102. The policy therefore identifies spaces which meet such tests as demonstrated in the evidence base.
ELM15	Green Ring	The policies define the presence of Green and Blue Infrastructure assets in the Parish. By doing so it supports the vision and Place and People objectives of the Essex Green Infrastructure Strategy 2020 and Tendring's Local Plan Part 2 Policy HP3 Green Infrastructure and provides a local element to its provisions.
ELM16	Nature Recovery	
ELM17	Health and Wellbeing Service Provision	Given that no specific site proposals have come forward, and the existing site is unable to accommodate expansion, the policy seeks to refine Tendring's Local Plan Part 1 Policy SP6 Infrastructure & Connectivity and Local Plan Part 2 Policy HP1 Improving Health and Wellbeing by way of supporting the refurbishment, reconfiguration, extension, or potential relocation for the benefit of the patients of Elmstead Surgery or through other solutions that address capacity and increased demand via digital solutions or health and wellbeing initiatives, in line with the STP Estate Strategy.
ELM18	Local Community Uses	The policy refines Policy HP2 Community Facilities of Tendring's Local Plan Part 2 by identifying local community facilities to which that policy should apply. It also makes provision for a partial change of use in the event that such

		schemes safeguards the community use which is considered to be in line with the guiding principle of Policy HP2 in seeking to avoid the unnecessary loss of such uses.
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5.20 It is considered that all of the policies are in general conformity with the strategic policies of the adopted Local Plan, with no incidence of two or more strategic policies being in tension, nor of the Parish Council having to strike a balance between them. As a result, the Neighbourhood Plan, as a whole, meets Condition (e).

## **6. CONDITION (F): COMPATABILITY WITH EU LEGISLATION**

6.1 In January 2022 TDC has published a screening opinion that has determined that a Strategic Environmental Assessment is not required, following consultation with statutory bodies, as per Regulation 9 of the Environmental Assessments of Plans and Programmes Regulations 2004 (as amended). A copy of the screening opinion is published separately. The Parish Council Forum has therefore met its obligations in relation to the EU Directive 2001/42 in respect of assessing the potential for significant environmental effects of the policies of the Neighbourhood Plan.

6.2 The Parish Council has also met its obligations in relation to the habitat provisions of EU Directive 92/43/EEC (and the associated Conservation of Natural Habitats and Wild Flora and Conservation of Habitats and Species Regulations 2017 (as amended)). In this regard, the Parish Council provided TDC with all the necessary information it required for the purposes of determining whether an Appropriate Assessment was required or to carry out the Appropriate Assessment if one was required. TDC's Habitats Regulations Screening Assessment concludes that the making of the Neighbourhood Plan is not likely to have a significant effect on a designated site (as defined in the 2017 Regulations) either alone or in combination with other plans or projects.

6.3 The Parish Council has been mindful of the fundamental rights and freedoms guaranteed under the European Convention on Human Rights in process of preparing the Neighbourhood Plan and considers that it complies with the Human Rights Act. The Neighbourhood Plan has been subject to extensive engagement with those people local to the area who could be affected by its policies and their views have been taken into account in finalising the Plan.

6.4 In respect of Directive 2008/98/EC – the Waste Framework Directive – the Neighbourhood Plan does not include any policies in relation to the management of waste. On that basis, this Directive is not considered relevant to the Neighbourhood Plan and therefore could not be breached.

6.5 In respect of Directive 2008/50/EC – the Air Quality Directive – the Neighbourhood Plan does not include any policies in direct relation to the management of air quality. However, it is likely that ELM12 and ELM13 will have a positive impact on air quality in the area. On that basis, this Directive is not considered relevant to the Neighbourhood Plan and therefore could not be breached.