
Appeal Decisions

Inquiry held on 8 October 2019

Site visit made on 8 October 2019

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 25 October 2019

Appeal Ref: APP/X1545/W/19/3230267

Land at Broad Street Green Road, Maypole Road, and Langford Road, Heybridge CM9 4SU

- 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 Countryside Properties and E. C., M. A. & D. C. Watson & K. L. Watson-Knee against the decision of Maldon District Council.
 - The application Ref.OUT/MAL/15/00419, dated 27 April 2015, was refused by notice dated 8 March 2019.
 - The development proposed is described as 'part outline/part detailed (hybrid) application for mixed use development including: (i) residential development (Use Class C3) (outline); (ii) residential care (Use Class C2) (outline); (iii) 'neighbourhood' uses which may include retail, commercial, and community uses (Use Classes A1 and/or A2 and/or A3 and/or A4 and/or A5 and/or D1 and/or D1b) (outline); (iv) primary school and early years childcare facility (Use Class D1c) (outline); (v) strategic flood relief infrastructure, including the construction of retaining earthworks, connecting ditches, pipework and syphons, water flow control measures, and outfall to the Chelmer and Blackwater river systems (detailed element); (vi) a relief road between Broad Street Green Road and Langford Road (detailed element); (vii) formal and informal open space (including any associated sports pavilion/clubhouse) (Use Class D2e) (outline); and (viii) all associated amenity space, landscaping, parking, servicing, utilities, footpath and cycle links, on-site drainage, and infrastructure works (part detail/part outline)'.
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Preliminary Matters

1. In their decision notice, the Council made some changes to the description of development as a result of amendments to the application made before it was determined. These changes have been reflected in the Statement of Common Ground¹ agreed between the appellant and the Council. As set out at the Inquiry, I am dealing with the appeal on the basis of that revised description.
2. The SoCG helpfully explains how those changes came about. The original submission included a Flood Alleviation Scheme² on land to the north of the residential element and the original site area reflected that. The application was reported to a Special Council in December 2016 on that basis where it was resolved that planning permission should be granted subject to the completion of an Agreement under s.106. However, it then transpired that the Environment Agency³, who were envisaged to be taking on the ownership and maintenance of the FAS, was not able to take on that responsibility.

¹ Referred to hereafter as SoCG

² Referred to hereafter as FAS

³ Referred to hereafter as EA

3. As a result, the Agreement under s.106 was not signed, and the application remained undetermined. The applicant submitted amended plans in August 2018 which deleted the FAS. The Council accepted the revisions, re-consulted, and processed the revised application. The application as revised was reported to an Extraordinary Council in February 2019, with a recommendation for approval from Officers, but was refused by Members for reasons I deal with in detail below.
4. The original application was a hybrid with full permission sought for some aspects and outline permission, with all matters reserved for future determination, for others. The amended scheme worked similarly with full permission sought for the relief road and sub-stations, and outline permission for everything else. I have dealt with the appeal on the same basis, and deal with the implications in terms of conditions below.
5. The proposals constitute EIA development for the purposes of the relevant regulations and the application was accompanied by an Environmental Statement⁴. The Council agree in the SoCG that the ES is proportionate and appropriate. On my analysis and given the lack of any suggestion to the contrary, I have no good reason to differ from that. I have taken the ES into account in determining the appeal.
6. It is also relevant to note that an application for development identical to that before me⁵ was submitted to the Council in July 2019. The Council has resolved to grant permission, subject to conditions, and the completion of an Agreement under s.106. That is a significant material consideration, obviously.
7. A draft Agreement under s.106 was discussed at the Inquiry⁶. I allowed a week after the Inquiry closed for signatures and the completed Agreement was duly received⁷. I deal with the various obligations it contains below.

Decision

8. The appeal is allowed and planning permission is granted for a part outline/part detailed (hybrid) application for mixed use development including: (i) residential development (Use Class C3) for up to 1138 dwellings including 30% as affordable housing (outline); (ii) residential care for up to 120 beds (Use Class C2) (outline); (iii) 'neighbourhood' uses which may include retail, commercial, and community uses (Use Classes A1 and/or A2 and/or A3 and/or A4 and/or A5 and/or D1 and/or D1b) (outline); (iv) primary school and early years childcare facility (Use Class D1c) (outline); (v) a relief road between Broad Street Green Road and Langford Road (detailed element); (vi) formal and informal open space (including any associated sports pavilion/clubhouse) (Use Class D2e) (outline); (vii) construction of initial gas and electricity sub-stations (detailed); and (viii) all associated amenity space, landscaping, parking, servicing, utilities (other than as listed in item (vii) above), footpath and cycle links, on-site drainage, and infrastructure works (outline) on Land at Broad Street Green Road, Maypole Road, and Langford Road, Heybridge CM9 4SU, in accordance with the terms of the application, Ref.OUT/MAL/15/00419, dated 27 April 2015, subject to the conditions set out in Annex A to this decision.

⁴ Referred to hereafter as ES

⁵ Ref.OUT/MAL/19/00741

⁶ Inquiry Document 5

⁷ Inquiry Document 7

Main Issues

9. The Council refused planning permission because: *'Insufficient evidence has been submitted with the application to demonstrate that the proposed development would be able to incorporate adequate surface water drainage infrastructure and that the infrastructure that would be proposed would be maintained in a manner that would ensure that the development would not cause increased flood risk within the vicinity of the site and the catchment area of the watercourses that are within the site. The potential impact on flood risk resulting from the development is unacceptable and contrary to Policies S1, S4 and D5 of the Maldon District Local Development Plan and the guidance contained in the NPPF'*.
10. Following an Extraordinary Council meeting on 29th August 2019, the Council resolved not to defend their reason for refusal at the Inquiry. However, it is clear from representations made at application and appeal stages, and from views I heard from interested parties at the Inquiry, that local residents have residual concerns about some aspects of the proposal.
11. Against that background, it seems to me that the main issue to be explored here is best expressed as: whether the proposal accords with the provisions of the local plan for the area and if it does, whether there are any material considerations that would point in a contrary direction.

Reasons

12. The development plan for the area includes the Maldon District Approved Local Development Plan 2014-2029⁸ which was adopted in July 2017.
13. MDALDP Policy S1 gives voice to the presumption in favour of sustainable development as expressed in the original version of the National Planning Policy Framework (now superseded by the February 2019 version) and sets out a series of key principles in policy and decision-making. Notable amongst these, criterion 2) seeks to deliver a sustainable level of housing growth that will meet local needs and deliver a wide choice of high-quality homes in the most sustainable locations. Allied to that, criterion 3) promotes the effective use of land and prioritises development on previously-developed land and planned growth at the Garden Suburbs and strategic allocations.
14. Criterion 8) ensures that development is either located away from high flood risk areas (Environment Agency defined Flood Zones 2 and 3) or is safe and flood resilient when it is not possible to avoid such areas. Criterion 9) is directed towards the conservation and enhancement of the natural environment and criterion 10) approaches the historic environment in much the same way.
15. Criterion 11) looks to identify the capacity and constraints of local infrastructure and services and seek to mitigate identified issues through developer contributions through Agreements under s.106, the Community Infrastructure Levy, and other sources.
16. MDALDP Policy S2 deals with strategic growth generally, which is to be focused on the main settlements of the District as they constitute the most suitable and accessible locations.

⁸ Referred to hereafter as MDALDP

17. The Council plans for a minimum of 4,650 dwellings between 2014 and 2039 with the majority of that growth to be delivered through sustainable extensions to Maldon, Heybridge and Burnham-on-Crouch in the form of Garden Suburbs and Strategic Allocations.
18. Place shaping is the ambit of MDALDP Policy S3 which outlines the principles upon which development proposals for the Garden Suburbs and Strategic Allocations must be based.
19. The appeal site is the largest of the three sites in the North Heybridge Garden Suburb referred to in MDALDP Policy S2 as (d) North of Heybridge. The other two sites (e) Land to the North of Holloway Road, and (f) West of Broad Street Green Road, benefit from planning permissions and indeed, construction is well underway on both sites.
20. MDALDP Policy S4 covers strategic growth in Maldon and Heybridge. As well as the 1138 dwellings referred to under Policy S2 as S2(d), the North Heybridge Garden Suburb is expected to incorporate a new one form entry primary school, two new 56 place early years and childcare facilities, necessary contributions toward the sufficient expansion of the Plume School, provision for youth and children's facilities, and a new outer relief road to the north of Heybridge between Broad Street Green Road and Langford Road.
21. Policy S4 goes on to note that permission will be granted for development at Garden Suburbs provided that they are in broad compliance with Policy S3 and meet a range of criteria. These include that, of direct relevance here, development proposals can be accommodated within the capacity of the Maldon and Heybridge road network and junctions and wider road network, following appropriate mitigation measures and junction improvements; and flood risk management and surface water mitigation measures will have regard to the Maldon and Heybridge Surface Water Management Plan and be planned in conjunction with relevant stakeholders and integrated with development proposals for the Strategic Growth areas as a whole.
22. Masterplans are also referred to in Policy S4. In relation to the North Heybridge Garden Suburb, in order to maintain a clear defensible northern and western boundary to Heybridge and reduce the potential for future coalescence with neighbouring villages: the new relief road should form the northern boundary of the development with only strategic flood alleviation and landscaping measures to the north of the road; strategic flood alleviation measures may be permitted outside the masterplan area; and the area between the new relief road, Maypole Road and Langford Road will be used for green infrastructure, agriculture, flood alleviation and/or landscaping measures.
23. In that respect, the Council has drawn my attention to the North Heybridge Garden Suburb Strategic Masterplan Framework, endorsed by Maldon DC as a material consideration for development management purposes, as far back as October 2014.
24. In broad terms, the proposal has been put together in accordance with these masterplan requirements but there are two residual points to consider that local residents expressed particular concern about. The first, reflected in the reason why the Council refused planning permission for the development proposed in the first instance, that I have set out in full above, relates to surface water drainage.

25. It is clear that the area around the appeal site has problems with surface water drainage and flooding. I heard that in their first iteration, policies relating to the North Heybridge Garden Suburb included a requirement for a FAS. However, on the basis that it is unreasonable to require a strategic allocation of the sort proposed to remedy an existing problem, the Inspector who examined the MDALDP required that element of the policy to be deleted.
26. That said, as originally submitted, the scheme at issue included a FAS. However, as I have set out above, this was subsequently deleted because of issues around future ownership and maintenance. To conform with the requirements of the Lead Local Flood Authority⁹, the scheme now promulgated discharges the runoff from the appeal site (the current 1:1 year greenfield runoff rate calculated for all storm events up to and including the 1:100 year event plus a 40% allowance for climate change) back into the existing watercourses that flow through the site. A number of storage features (SuDS¹⁰) have been incorporated to store surface water runoff.
27. This reduction in outflow from the appeal site ensures that there will be no increase in flooding during the 1:1 year rainfall event. In more significant rainfall events (storms up to and including the 1:100 year event plus a 40% allowance for climate change) some betterment will be achieved through reduced discharge rates into the watercourses that cross the site.
28. In terms of future maintenance, it is proposed that a Management Company maintains the SuDS features on the site funded through an estate charge. In my experience, this is a perfectly normal arrangement given that there are no public bodies prepared to take on the responsibility.
29. In my view, that overall approach, which I would observe is the same approach taken to the other parts of the overall Garden Suburb under construction - S2(e) and S2(f) – is a perfectly reasonable one. There is nothing in it that falls foul of the requirements of MDALDP Policies S1, S2, S3 or S4. Neither is there any divergence from the requirements of MDALDP Policy D5 which requires amongst other things, development not to increase flood risk on site and elsewhere and to demonstrate how opportunities to reduce the causes and impacts of flooding have been maximised through SuDS, and other measures.
30. Local residents have referred me to paragraph 2.59 of the MDALDP. This notes the vulnerability of parts of Maldon and Heybridge to surface water flooding and the potential for strategic development in these areas to reduce flooding and divert surface water flooding away from the urban area through appropriate design and the introduction of SuDS. In particular, strategic developments to the north of Heybridge should not prejudice, and should be integrated with, a strategic flood alleviation scheme which will address the existing surface water flooding in North Heybridge.
31. However, there is nothing in the approach of the appellant to surface water drainage that runs counter to that. In particular, it keeps free the area of land that was set aside for the FAS and does not prevent its delivery by others. The EA, who are leading on a project to alleviate flooding in areas of Heybridge to the south of the appeal site, with the Council and the County Council, has confirmed as much.

⁹ Referred to hereafter as LLFA

¹⁰ Sustainable Drainage Systems

32. Given the nature of the problem, I can understand why local residents feel strongly about the matter and expect speedy progress. However, it is no fault of the appellant that the originally intended FAS did not come to fruition. In my view, the appellant has proceeded in a reasonable manner throughout and the approach the proposal takes to surface water drainage is in full compliance with the development plan. There are no material considerations that would justify a decision other than in accordance with the development plan in terms of surface water drainage.
33. That conclusion is especially robust when one considers that the LLFA has confirmed through a SoCG with the appellant that the drainage strategy *'provides an appropriate sustainable drainage strategy for the site which meets the technical and policy requirements of the LLFA'*.
34. The second matter raised by local residents relates to the road network and its inability, it is suggested, to cope with additional traffic that would be generated. I would observe in the first instance that it is difficult to conceive of how a strategic allocation of the size of the North Heybridge Garden Suburb would have survived the rigours of the MDALDP examination if there was any likelihood of a severe impact.
35. Essex County Council (as highway authority) has agreed through a SoCG with the Council that the proposal, through the provision of a relief road, and other mitigation including junction improvements, *'would have a beneficial effect for the operation of the highway network in North Heybridge and would divert some trips away from the centre of Maldon'*. I have no good reason to doubt that expert conclusion and in my view the proposal complies with the requirements of MDALDP Policies S1, S2, S3 or S4 in this regard. There are no material considerations that would justify a decision other than in accordance with the development plan in terms of highway matters.
36. It is correct to observe too that as the ES acknowledges, the proposal will have (less than substantial) harmful impacts on the significance of some listed buildings, and the Langford Conservation Area. Notwithstanding the considerable importance and weight that must be attributed to these impacts¹¹, the Council is content, through the application of paragraph 196 of the National Planning Policy Framework¹², that the public benefits of the proposal, notably (but not confined to) the provision of a significant amount of market and affordable housing, outweigh the harm that would be caused. Given that those impacts of the allocation must have been factored in as part of the examination of the MDALDP, I agree with that conclusion.
37. In a similar way, the proposal would have some adverse landscape and visual impact but again, this has been factored into the allocation and is justified by the benefits brought forward. There could also be something of an adverse impact on the living conditions of existing residents through noise, from the relief road in particular, and street lighting. However, these potential impacts can be mitigated through conditions.
38. Impacts on local infrastructure, like schools and GP services are likely but can be mitigated through the operation of the Agreement under s.106; another matter I return to below.

¹¹ By dint of the workings of the Planning (Listed Buildings and Conservation Areas) Act 1990

¹² Referred to hereafter as the Framework

39. In terms of the Habitats Regulations, the appellant has submitted Information Towards a Habitats Regulations Assessment¹³, updated to May 2019, which I have considered carefully. The Council has considered the self-same ITHRA in dealing with the parallel application and concluded that with mitigation, the proposals would not have an adverse effect on the integrity of any European Site and that the Council can agree to the proposal under the terms of the relevant regulations¹⁴. Natural England has taken the same view¹⁵.
40. The ITHRA confirms that the mitigation proposals have not been taken into account in screening out assessment; rather they have been taken into account at the next stage, following assessment. The mitigation proposals in the ITHRA, which are also referred to in the ES, can be secured through conditions, and the Agreement under s.106. I return to these matters below.
41. In dealing with the appeal, I am the competent authority for the basis of the Habitats Regulations. Based on the foregoing, and the views of Natural England especially, I am satisfied that the proposals would have no adverse impact on the integrity of the Blackwater Estuary SPA/Ramsar or the Essex Estuaries SAC, either alone or in combination with other plans and projects. There is, therefore, no habitats-based reason to resist the proposal.
42. In relation to ecology and biodiversity, some negative significant impacts at a local level during the construction stage are expected but mitigation measures included in the proposals, including new planting and enhancement of retained habitats, mean that there will be no significant impacts as a result of the completed development. On top of that, the proposal retains a minimum 15m buffer to Heybridge Wood, which includes Ancient Woodland, but in cases, the separation distance will be much greater. The Agreement under s.106 secures measures for the beneficial management of Heybridge Wood in future, in order to facilitate public access.
43. While one has dealt at length with the negative, and potentially negative, aspects of the proposal, it is important to appreciate the benefits it will bring forward too. The delivery of 1,138 homes on the site, of which 341 would be affordable homes, is a central plank of the MDALDP and the Council has described it as '*the largest single contributor to meeting the objectively assessed needs of the District*'. The MDALDP anticipated that the appeal site would be providing completions by now, so it is essential to its strategy that it is released for development as soon as possible.
44. Alongside the market and affordable housing, the proposal will also provide for residential care provision, neighbourhood uses that may include retail, commercial and community uses, a primary school and early years childcare facility, open space, and a relief road. I accept that some of those provisions are necessary to meet demands generated by the development itself, but others, notably the relief road, will bring wider benefits.
45. Overall, I conclude that the proposal accords with the MDALDP Policies S1, S2, S3 and S4, and the development plan as a whole. Moreover, it complies with the approach of the Framework. There are no material considerations that would justify a decision contrary to the provisions of the development plan.

¹³ Referred to hereafter as ITHRA

¹⁴ Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017

¹⁵ Inquiry Document 3

Conditions and Obligations

46. Paragraph 55 of the Framework advises that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
47. Helpfully, the appellant and the Council submitted a Schedule of Conditions in advance of the Inquiry. Having regard to advice in the Framework, there may appear to a large number of suggested conditions (48) but in my experience, this is not unusual for such a significant scheme. Many are uncontroversial and readily accepted as meeting the tests of the Framework by the appellant, including those that are pre-commencement in nature. I have confined myself to the occasional adjustment in the interests of precision in respect of these agreed conditions.
48. On the other hand, some of the conditions put forward by the Council have attracted adverse comments from the appellant. The first group of such conditions are those intended to address the hybrid nature of the application, and commencement, reserved matters, and the approved plans. The Council suggests that the element for which full permission is sought needs to be treated separately from the outline element, but the appellant is of the view that the usual commencement and reserved matters conditions governing an outline permission should be used for everything.
49. In my view the Council is correct in its approach. If the application seeks full permission for elements of the scheme, then it seems to me axiomatic that the commencement condition that relates to a full grant of planning permission must apply to those elements. Those elements for which outline permission has been sought can be dealt with separately in terms of commencement, and the submission of reserved matters.
50. In terms of the 'plans' condition, I see no requirement to separate this out between the different elements and agree with the appellant that this can be dealt with through one condition. I would add that the Council's suggestion that 'the reserved matters should be carried out substantially in accordance with the Design & Access Statement' is imprecise and unnecessary.
51. The second principal area of dispute relates to the surface water drainage scheme and its subsequent maintenance. The Council helpfully accepted that the suggested conditions do not reflect the up to date position of the LLFA. I have adjusted the conditions to reflect that advice.
52. There are some issues too around the various landscaping conditions. Suggested condition 19 refers to retained trees so there is a question as to whether a clause requiring replacement in the event that such a tree is removed, destroyed, dies or becomes seriously damaged or defective is necessary. In my view it is, because it caters for the situation where damage, particularly to root systems, is unseen in the course of works and causes longer term degradation. Helpfully, the appellant did not pursue initial objections to this clause.
53. In terms of the main landscaping condition, I agree with the appellant that the reference to the Council's endorsed Strategic Design Code should be relaxed in the manner suggested.

54. The only other dispute revolves around suggested condition 48 which deals with amplified sound systems that might be used in the Local Centre. Conscious that layout is a reserved matter, and that it is in the appellants' gift to arrive at a sensible relationship between the Local Centre, or any other non-residential use, and noise sensitive receptors, I am of the view that the Council's suggested condition, amended at the Inquiry¹⁶ offers the correct level and nature of protection, notwithstanding the workings of the licensing regime.
55. In relation to the completed Agreement under s.106¹⁷, the Council helpfully prepared a CIL Compliance Schedule in advance of the Inquiry.
56. The Agreement deals with conditionality in Section 4. Clause 4.1 explains that the obligations are conditional upon the grant of planning permission; the commencement of development; the Inspector (or the Secretary of State) determining that they meet the requirements of Regulations 122 and 123 of the CIL Regulations¹⁸, being 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; and that the Inspector (or Secretary of State) attaches weight to such obligations as material considerations in determining the appeal.
57. The tests set out in Clause 4.1 mirror those in paragraph 56 of the Framework and Regulation 122 of the CIL Regulations.
58. The various obligations in the Agreement under s.106 deal with commencement, monitoring and completion, affordable housing, education (the Primary and EYC Education Site, Education Contributions and the Early Years Commercial Site), health care facilities, local management organisation, youth facilities, allotments, open space LAPs and SuDS, sports facilities, LEAP and NEAP, highway, public transport and Travel Plan obligations (highway, public transport provision and the Residential Travel Plan), the Natura 2000 contribution, and Heybridge Wood.
59. In the context of the policy background provided by the MDALDP, the CIL Compliance Schedule deals with the various obligations and explains how they are required to mitigate impacts, through the provision of infrastructure directly, or through contributions. Having considered the Agreement and the CIL Compliance Schedule, I am content that all the obligations are 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. Given that they are intended to mitigate impacts, I have attached weight to them as material considerations in determining the appeal.

Final Conclusion

60. On that overall basis, I conclude that the appeal should be allowed.

Paul Griffiths

INSPECTOR

¹⁶ Inquiry Document 4

¹⁷ Inquiry Document 7

¹⁸ Though I would note that Regulation 123 is no more

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

John Fitzsimons of Counsel	Instructed by Simon Quelch, Solicitor, Maldon DC
He called:	Anna Tastsoglou Principal Planning Officer, Maldon DC

FOR THE APPELLANT

Andrew Tait QC	Instructed by Pinsent Masons
& Caroline Daly of Counsel	
They called:	Paul Keating BEng (Hons) CEng MICE, Civil Engineering Director, Richard Jackson Ltd
	Kevin Coleman BSc DipTP MRTPI, Phase 2 Planning & Development Ltd

INTERESTED PERSONS

Roy Pipe JP	Local Resident
David Sargood	Chair of Heybridge Residents' Association
John Harrison	Local Resident
Mrs Bateman	Local Resident
Christopher Salmon	Local Resident

INQUIRY DOCUMENTS

Document 1	Mr Tait's Opening Statement
Document 2	Mr Fitzsimons' Opening Statement
Document 3	Letter from Natural England
Document 4	Draft Wording for Condition 48
Document 5	Draft Agreement under s.106
Document 6	Mr Tait's Closing Statement
Document 7	Completed Agreement under s.106 (submitted post-Inquiry)

Annex A: Schedule of Conditions

- 1) The elements of the development for which full permission is hereby granted (a relief road between Broad Street Green Road and Langford Road and the construction of initial gas and electricity sub-stations) shall begin not later than three years from the date of this decision.
- 2) For all elements of the development other than those for which full planning permission has been granted (a relief road between Broad Street Green Road and Langford Road and the construction of initial gas and electricity sub-stations) 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 other than preliminary ground works, or any works connected to the construction of the relief road or the substations referred to in Condition 1), takes place, and the development shall be carried out as approved.
- 3) The first application for approval of reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 4) The final application for approval of reserved matters shall be made to the local planning authority not later than ten years from the date of this permission.
- 5) The element of the development for which outline permission is hereby granted shall begin not later than two years from the date of approval of the first of the reserved matters to be approved.
- 6) The development hereby permitted shall be carried out in accordance with the following approved plans: PRM-01 Rev R – Design Parameter Plan – Land Use; PRM-04 Rev P – Design Parameter Plan – Building Heights; PRM-05 Rev Q – Design Parameter Plan – Residential Density; PRM-02 Rev W – Green and Blue Infrastructure; PRM-03 Rev P – Access and Movement; CPMALDON.1/01J – Relief Road Overview; CPMALDON.1/02G – Langford Road Roundabout; CPMALDON.1/03F – Staggered Priority Junction Arrangement; CPMALDON.2/04E – Central Priority Junction and Broad Street Green Rd Roundabout; CPMALDON.1/05D – Langford Road Rd/.Northern Arm and Vertical Profile; CPMALDON.108C – Relief Road Long Section – Langford Road End; MBSK150720-1 – Maldon Road Centreline and Visibility; 44006-C-010B – Substation Location Plan; TC-STD-G-PRI – Gas Governor; and TC-STD-SS-01 – Brick Built Electricity Substation.
- 7) No development within any part of the site or phase of development (as defined in the Strategic Phasing Plan to be approved pursuant to Condition 11) shall take place until a Construction Environmental Management Plan (CEMP) for that part of the site or phase of the development has been submitted to and approved in writing by the local planning authority. The CEMP shall include the consideration of the following aspects: (a) indicative construction and phasing programme for that phase/part of the development; (b) details of the location of the construction compound with boundary/security details, and temporary buildings/offices, storage areas/compounds, plant, equipment, external lighting arrangements, materials storage, screening, and hoardings; (c) hours of construction and delivery times for construction purposes; (d) a

Waste Management Plan detailing the anticipated nature and volumes of waste, measures to ensure the maximisation of waste re-use, measures to ensure effective segregation of waste at source including waste sorting, storage, recovery and recycling facilities to ensure the maximised reuse of waste both within and outside the site, any other steps to ensure the minimisation of waste during construction, the location and timing of provision of facilities, proposed monitoring and timing of submission of monitoring reports; (e) a Pollution Management Plan to include details of measures to be taken during the construction period to protect wildlife, habitats and hydrology, an investigation and monitoring scheme to oversee and direct construction works, and details of soil handling, storage and restoration, dust management and wheel washing facilities; (f) procedures for dealing with any unexpected contamination that may be encountered during the construction process; (g) a Construction Ecological Management Plan, including details for mitigating the effects of construction on habitats and protected species in line with the assessment set out in the Environmental Statement; (h) measures for protecting trees and hedgerows intended for retention, during the construction process; (i) a Noise and Vibration Plan detailing methods for monitoring and mitigating noise and vibration from plant, construction equipment and vehicles; (j) a Water Management Plan detailing the measures to be used to prevent pollution into ground water supplies and to prevent flooding; and (k) a Traffic Management Plan to detail vehicle access arrangements, permanent and temporary realignment of highways, diversions and road closures, temporary signage, delivery areas, and parking spaces for visitors and on-site workers, and the safeguarding of Public Rights of Way during construction. The CEMP shall be implemented in the manner approved before any development commences in the relevant phase of development/part of the site to which it relates and shall be adhered to for the duration of the construction period of that phase/part of the development. All construction infrastructure shall be removed from the site within three months of completion of the corresponding phase/part of the development.

- 8) No development including any site clearance or groundworks of any kind shall take place within the site until an archaeological assessment (prepared by an accredited archaeological consultant) to establish the archaeological significance of the site has been submitted to and approved in writing by the local planning authority. The archaeological assessment shall inform the implementation of a programme of archaeological work, which may include a phased programme of works to enable the phased implementation of the development. The archaeological work shall be carried out in a manner that accommodates the approved programme of archaeological work.
- 9) No development 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 hydrogeological context of the site, has been submitted to and approved in writing by the local planning authority. The scheme shall include, but not be limited to: (a) limiting discharge rates to 1 in 1 greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change; (b) the provision of sufficient storage to ensure no off site

flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event; (c) the required allowance for urban creep should be included in storage calculations; (d) a demonstration that all storage features can half empty within 24 hours for the 1:30 plus 40% climate change critical storm event. If the storage required to achieve this via infiltration or a restricted runoff rate is considered to make the development unviable, a longer half emptying time may be acceptable. An assessment of the performance of the system and the consequences of consecutive rainfall events occurring should be provided. Subject to agreement, ensuring the drain down in 24 hours provides room for a subsequent 1 in 10 year event may be considered acceptable; (e) final modelling and calculations for all areas of the drainage system; (f) the appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753; (g) detailed engineering drawings of each component of the drainage scheme; (h) a final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features; and (i) a written report summarising the final strategy and highlighting any minor changes to the approved strategy. The surface water drainage scheme shall be implemented in accordance with the approved details before occupation.

- 10) The management and maintenance of watercourses within the site and the SuDS network to be provided shall be in accordance with the general provisions of the SuDS Maintenance Proposals of June 2019. Prior to commencement of development within any part of the site or on any phase of the development, further specific details identifying who is responsible for the management and maintenance of all aspects of the proposed SuDS network within that part of the site/phase of development shall be submitted to and approved in writing by the local planning authority. The approved details of management and maintenance shall be implemented following first use or occupation of any property within that phase of the development/part of the site.
- 11) Before or concurrent with the submission of the first of the reserved matters application(s) for the site, A Strategic Phasing Plan, which accords with the triggers in the accompanying Agreement under s.106 for the provision of infrastructure and which covers the entirety of the application site shall be submitted to and approved in writing by the local planning authority. The Strategic Phasing Plan shall include the proposed sequencing of the following elements: (a) the relief road with associated junctions at Langford Road, Maypole Road and Broad Street Green Road; (b) the utilities infrastructure approved herein; (c) the principal phases of both residential and non-residential development (including the Local Centre and education facilities); (d) the green infrastructure, including the sequencing of play space, playing pitch, youth facilities and allotments; (e) strategic footpath and cycleway provision/crossings (both on- and off-site) in accordance with the Access and Movement Parameter Plan; (f) the phasing of strategic foul and surface water features, including SuDS; (g) structural landscaping; (h) environmental mitigation measures; and (i) the acoustic barrier south of the Relief Road. The development shall be carried out in accordance with the approved Strategic Phasing Plan unless a revision to that plan is agreed in writing by the local planning authority through this condition.

- 12) Before or concurrent with the submission of the first reserved matters application(s) a Strategic Management and Maintenance Plan for the entirety of the Strategic Green Infrastructure shall be submitted to and approved in writing by the local planning authority. This shall include: (a) details of who will be responsible for the management and maintenance of the entire Green Infrastructure and Blue Infrastructure as defined by the Green and Blue Infrastructure Parameter Plan, including broad long-term design objectives; and (b) details of who will be responsible for the management and maintenance of allotments. The Strategic Management and Maintenance Plan for the entirety of the Green Infrastructure shall be implemented as approved in accordance with the Strategic Phasing Plan unless a revision to that plan is agreed in writing by the local planning authority through this condition and shall remain in place in perpetuity.
- 13) Before or concurrent with the submission of the first of the reserved matters application(s) within any phase of the development (as defined by the Strategic Phasing Plan), an Ecological Conservation Management Plan (ECMP) for that phase shall be submitted to and approved in writing by the local planning authority. The ECMP shall accord with and give effect to the principles for such a plan proposed in the Environmental Statement and shall set out the measures proposed for protecting the net biodiversity of the site as a result of development and shall include: (a) contractor responsibilities, procedures, and requirements; (b) full details of appropriate habitat and species surveys, and reviews where necessary, to identify areas of importance to biodiversity; (c) details of measures to ensure protection and suitable mitigation to all legally protected species and those habitats and species identified as being of importance to biodiversity both during construction and post development, including consideration and avoidance of sensitive stages of species' life cycles, such as the bird breeding season, protective fencing, and phasing of works to ensure the provision of advanced habitat areas and to minimise disturbance of existing features; (d) identification of habitats and species worthy of management and enhancement together with the setting of appropriate conservation objectives for the site; (e) a summary work schedule table confirming the relevant dates and/or periods that protection measures shall be implemented or undertaken by; (f) a programme for monitoring to be carried out four times annually during the construction process; (g) confirmation of suitably qualified personnel responsible for overseeing implementation of the ECMP commitments, such as an Ecological Clerk of Works, including a specification for the role; and (h) a programme of long-term maintenance, management and monitoring responsibilities. No development in any phase shall commence until such time as the ECMP relating to that phase has been approved in writing by the local planning authority. All species and habitat protection, enhancement, restoration and creation measures shall be carried out in accordance with the approved ECMP.
- 14) No development shall take place (save for works required to facilitate further investigation or remediation) within the areas at risk of potential land contamination as identified in the Phase 1 Contaminated Land Desk Study & Preliminary Geotechnical Assessment, Project No.44006 at Appendix A, Figure 3, by Richard Jackson Ltd until a Phase 2 intrusive investigation and report into potential land contamination has been carried out. The investigation shall inform an updated conceptual model

that identifies whether remediation measures are required. If required, the report shall also include a remediation strategy. The Phase 2 report and remediation strategy shall be submitted to and approved in writing by the local planning authority and implemented in accordance with the approved details before any other development in the areas identified takes place.

- 15) No construction of residential buildings shall take place until a strategy to facilitate superfast broadband for future occupiers has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved strategy.
- 16) No building intended for use for purposes falling within Use Classes A1, A2, A3, A4, A5, C2, C3, D1 or D2 as defined by the Town and Country (Use Classes) Order 1987 (as amended) shall be erected above foundation level until details of the foul water drainage for that building have been submitted to and approved in writing by the local planning authority. The drainage works shall be completed in accordance with the approved details before first occupation of the building to which it relates.
- 17) No development within a site for which reserved matters approval is sought shall take until such time as full details of the position and proposed depth of excavation trenches for all services (including cables, pipes, surface water drains, foul water drains, and public utilities) and their means of installation where they pass under the canopy of any retained tree within, adjacent to, or which overhangs, the development area, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 18) No trees or hedgerows within the site shall be felled, cut back, damaged, or removed, unless otherwise first agreed in writing by the local planning authority, other than those listed in Table 5 at Appendix 6 of the Arboricultural Impact Assessment dated 23/04/15 (Ref. DFC 1247) and which fall within the area for the construction of the relief road as hatched red in the Tree Protection Plans at Appendix 5 to that document. No development shall commence within any reserved matters area until information relating to area has been submitted to and approved in writing by the local planning authority in accordance with the requirements of BS5837:2012 in relation to tree retention and protection as follows: (a) tree/hedgerow survey detailing works required; (b) trees/hedgerows to be retained/removed; (c) tree retention protection plan; (d) tree constraints plan; (e) arboricultural implication assessment; (f) arboricultural method statement (including drainage service runs and construction of hard surfaces); and (g) trees off-site. No development in any reserved matters area shall commence until fencing and ground protection to protect the retained trees/hedgerows in that reserved matters area have been erected in accordance with the details previously submitted to and approved in writing by the local planning authority. If within five years from the completion of the development an existing tree is removed, destroyed, dies, or becomes seriously damaged or defective, a replacement tree shall be planted within the site of such size and species and at such a time as specified by the local planning authority.

- 19) Before the first residential occupation in any phase of the development (as defined in the Strategic Phasing Plan), full details shall be submitted to and approved in writing by the local planning authority of the proposed acoustic barrier to the south of the Relief Road relating to that particular phase. The acoustic barrier shall be completed in accordance with the approved details before first occupation of any dwelling in that particular phase and retained in perpetuity thereafter.
- 20) Prior to the occupation of the 100th dwelling hereby approved, the Relief Road shall be fully completed in accordance with the approved details and open to the public between Langford Road and Maypole Road.
- 21) Prior to the occupation of the 350th dwelling hereby approved, the Relief Road shall be fully completed in accordance with the approved details and including all associated accesses, junctions and crossing points, and open to the public between Langford Road and Broad Street Green Road.
- 22) Prior to the completion of the Relief Road, details of the following shall be submitted to and approved in writing by the local planning authority: (a) a scheme of monitoring of the traffic conditions on Maypole Road between Holloway Road and the junction of Maypole Road with the Relief Road; and (b) details of a scheme to provide priority for buses along Maypole Road south of the Relief Road, to be delivered within the highway boundary.
- 23) The monitoring scheme agreed pursuant to condition 22 shall not commence before the Relief Road is completed and open to the public. The monitoring data shall be submitted to the local planning authority and the highway authority within three months of the completion of the monitoring period. No more than 500 of the dwellings hereby approved shall be occupied until the local planning authority has confirmed in writing as to whether the scheme approved pursuant to condition 22 is required to be implemented. If implementation is required, then no more than 600 dwellings shall be occupied until the scheme is completed.
- 24) Before the first occupation of any dwelling within the development, a Residential Travel Plan shall be submitted to and approved in writing by the local planning authority. The approved Travel Plan shall be implemented for a period commencing from the first occupation of any dwelling on the site, and end 1 year after the occupation of the 1,100th dwelling, or some other time period as may be agreed by the local planning authority through this condition.
- 25) Upon the first occupation of any dwelling, a Residential Travel Information Pack (a pack) setting out available sustainable transport choices, previously submitted to and approved in writing by the local planning authority, shall be provided with that dwelling. The Pack shall include free travel vouchers for use with the relevant local public transport operator.
- 26) After the occupation of the 500th dwelling but before the occupation of the 750th, a Noise Validation Survey shall be undertaken to verify the noise levels in the rear of the gardens of properties on Poplar Grove and properties fronting Langford Road. The survey results shall be submitted to the local planning authority. In the event that the survey shows noise levels exceeding WHO 55bD in these areas, the developer shall write to the owners of the affected properties to offer the construction of a solid

wooden boundary fence up to 1.8m in height, and if requested to do so by the owners of the property within 28 days of the offer, shall complete the installation of the fence before occupation of the 751st dwelling on the development site.

- 27) Any reserved matters application(s) relating to access, where a highway within that phase is to include a Bus Stop (as specified in any Public Transport Strategy that is agreed pursuant to the Agreement under s.106 relating to the development), shall include full details of the bus stop to be provided, including the timing of its provision. The provision of bus stop infrastructure within the development site shall include, but not be limited to, the following: (a) details of raised height kerbs and shelters; (b) real time passenger information signs; and (c) bus routes with a minimum carriageway width of 6.75m.
- 28) Any reserved matters application(s) relating to layout shall include a scheme to show the provision of a network of pedestrian and cycle routes linking all areas within that part of the development, in accordance with Drawing PRM-03 Rev P – Design Parameter Plan – Access and Movement, and a programme for their implementation. The cycle routes shall be appropriately hard-surfaced and, where provided as a dedicated off-carriageway route, shall have a minimum width of 3m (or 3.5m if shared with pedestrians). The pedestrian and cycle routes shall be implemented in accordance with the approved details.
- 29) Any reserved matters application(s) relating to layout and/or access, including residential or commercial buildings, shall include details of all types of vehicle parking proposed, including the number, location, and design of any enclosed structures within the site. Prior to the occupation of any dwelling/building within that reserved matters parcel, the parking areas relating to that dwelling/building shall be completed in accordance with the approved details and retained for their intended purpose thereafter.
- 30) Any reserved matters application(s) including residential or commercial buildings shall be accompanied by details of facilities for the covered secure parking of bicycles for use in connection with those buildings. Prior to the occupation of any dwelling/building the cycle parking facilities for that dwelling/building shall have been provided in accordance with the approved details and they shall be retained thereafter for their intended purpose.
- 31) Any reserved matters application made pursuant to this approval that seeks the approval of landscaping details shall include a detailed landscaping scheme with designs and specifications for the associated reserved matters site. Where relevant to that part of the site, this shall substantially accord with the details set out within the submitted Design Strategy for the North Heybridge Relief Road (included within the Design and Access Statement). The details shall be accompanied by a Landscaping Statement that demonstrates how the landscaping scheme is broadly in accordance with the Council's endorsed Strategic Design Code. The landscape designs and specifications for any reserved matters site shall include: (a) full details of planting plans and written specifications, including cultivation proposals for maintenance and management associated with plant and grass establishment, details of

the mix, size, distribution, density and levels of all trees/hedges/shrubs to be planted and the proposed timing of that planting. The planting plan shall include a full schedule of plants and use botanic names; (b) scaled cross-sections of mounding, ponds, ditches, and swales and proposed treatments of the edges and perimeters of the site; (c) the landscape treatment of all roads through the reserved matters site; (d) a specification for the establishment of trees within hard landscaped areas including details of space standards and tree pit details; (e) the planting and establishment of structural landscaping to be provided in advance of all or specified parts of the reserved matters site as appropriate; (f) full details of any proposed alterations to existing watercourses and/or drainage channels; (g) details and specification of any proposed earth modelling, mounding, re-grading and/or embankment areas or changes of level across the reserved matters site to be carried out including soil quantities, topsoil storage to BS 3882:2007, haul routes, proposed levels and contours to be formed, sections through construction to show make-up; and the timing of works; (h) full details of all proposed methods of boundary treatment including details of all gates, fences, walls, and other means of enclosure both within and around the edge of the reserved matters site; (i) full details, including cross-sections, of all bridges and culverts; (j) utility routes, type and specification; (k) the location and specification of minor artefacts and structures including furniture, refuse, or other storage units, signs and lighting columns/brackets; (l) 1:200 scale plans (or at a scale otherwise agreed) including cross sections, of roads paths and cycleways; and (m) details of all hard surfacing materials (size, type and colour). The details submitted for both hard and soft landscaping shall include a schedule for the implementation of the proposed works along with a Management and Maintenance Plan which shall include: (i) planting, grass cutting, weeding and pruning schedules; (ii) inspection, repair and maintenance details relating to hard landscaping (including tracks, paths, boundary treatment, play equipment, street furniture, and litter picking); and (iii) a programme of management activities and monitoring and operational restrictions; and (iv) a maintenance programme for the establishment period of the planting and existing remaining planting for trees and hedgerows (the first five years after planting). The landscaping within the reserved matters site areas shall be implemented in accordance with the approved details and programme unless an alternative programme is agreed in writing by the local planning authority through this condition. The approved Management and Maintenance Plan shall be implemented in accordance with the approved details and continued thereafter in perpetuity.

- 32) Any reserved matters application shall be accompanied by details relating to the location, design, specification, management and maintenance of the recycling facilities. These details shall specify the specific positions where wheeled bins, recycling boxes, or any other means of storage, will be stationed, and the arrangements for the disposal of waste. The approved recycling facilities shall be provided for the dwelling/building to which they relate prior to the occupation of that dwelling/building.
- 33) Any trees or plants provided as part of any landscaping scheme for a reserved matters site which. Within a period of five years of the planting date, die, are removed, or become seriously damaged or diseased, shall

- be replaced in the next planting season with others of similar size and species.
- 34) Notwithstanding the provisions of Schedule 2, part 1, Class F of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) there shall be no hard surfacing of front gardens beyond that permitted as part of the approval of reserved matters.
- 35) Prior to the installation of any external lighting (other than street lighting to adopted road or domestic security lighting), a lighting strategy for that phase of the development (as agreed through Condition 11), including details of the location and type of fixtures and fittings, shall be submitted to and approved in writing by the local planning authority. The external lighting shall be implemented in accordance with the approved details and retained as such thereafter.
- 36) Pursuant to condition 10 attached to this permission, yearly logs of maintenance shall be kept which should be carried out in accordance with any approved Maintenance Plan. These must be made available for inspection upon request by the local planning authority.
- 37) The development shall be carried out in accordance with the following housing mix: 1 or 2 bedrooms – minimum 50%; 3 bedrooms – minimum 30%; and 4+ bedrooms – no more than 20%.
- 38) Not less than 4% of the dwellings hereby approved shall be smaller dwellings (1 or 2 bedrooms) that are single-storey in height.
- 39) No development of the playing fields shall commence until the following documents have been submitted to and approved in writing by the local planning authority: (i) a detailed assessment of ground conditions (including drainage and topography) of the land proposed for the playing field which identifies constraints that could affect playing field quality; (ii) based on the results of the assessment to be carried out under (i), a detailed scheme that ensures the playing field will be provided to an acceptable quality – the scheme shall include a written specification of soils structure, proposed drainage, cultivation, and other operations associated grass and sports turf establishment and a programme of implementation; and (iii) a noise impact assessment relating to the use of the playing fields detailing a scheme of future mitigation measures. The approved schemes shall be carried out in accordance with the Strategic Phasing Plan (condition 11) and the land shall thereafter be maintained and made available for use as playing fields in accordance with the approved details.
- 40) Before the playing fields are brought into use, a Community Use Agreement (CUA) shall be submitted to and approved in writing by the local planning authority. This agreement shall include details of a pricing policy, hours of use, access by non-members, management responsibilities, and a mechanism for review. The CUA shall be implemented, in the manner approved, at all times.
- 41) There shall be no floodlighting associated with the playing fields/sports pitches, including those associated with the Primary School.
- 42) Prior to or contemporaneous with the submission of any application for reserved matters relating to the Local Centre, details of the distribution

and size of all units intended for use within Use Classes A1, A2, A3, A4, A5 and D1, as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) shall be submitted to and approved in writing by the local planning authority. The Local Centre shall be completed in accordance with the approved details.

- 43) The hours of use for any unit used for purposes within Use Classes A1, A2, A3, A4, A5 and D1, as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) within the Local Centre shall be 0700 to 2300 hours on Mondays to Saturdays (inclusive) and 1000 to 1700 hours on Sundays and Bank Holidays.
- 44) Deliveries to and collections from any unit used for purposes within Use Classes A1, A2, A3, A4, A5 and D1, as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) within the Local Centre shall only take place between 0730 to 1900 hours on Mondays to Saturdays and not at all on Sundays and Bank Holidays.
- 45) No development of the commercial units within the Local Centre shall be carried out until details of the means of commercial refuse/recycling storage, including details of the bin stores to be provided, have been submitted to and approved in writing by the local planning authority. The commercial refuse/recycling storage facilities shall be provided in accordance with the approved details before the units are brought into use and retained as such for their intended purpose thereafter.
- 46) No installation of any extract ventilation system, compressors, generators, refrigeration equipment, or any other fixed plant, shall be installed on any building in the Local Centre, unless the details of such equipment has first been submitted to and approved in writing by the local planning authority. Those details shall include the location of the equipment, acoustic housing, and any vibration isolation measures, together with projected noise levels at the boundary of the property. Installation shall be carried out in accordance with the approved details and retained as such thereafter.
- 47) The specific sound level (LA eq,15) resulting from any amplified sound used within any units falling within Use Classes A3, A4, A5, D1 and D2 as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) shall not exceed the background noise level (LA 90,15), at a point one metre from the external façade of the nearest noise sensitive receptor.