



Appeal Decisions

Hearing held on 18 February 2025

Site visits made on 17 and 19 February 2025

by David M H Rose BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th March 2025

Appeal A Reference: APP/X1545/W/24/3350230

Land to the East of Broad Street Green Road, Broad Street Green, Heybridge, Essex, CM9 4BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Charles Church against the decision of Maldon District Council.
 - The application Reference is FULM/MAL/23/00648.
 - The development proposed is 'Full planning application for a residential development of 281 dwellings, including affordable homes and bungalows, formation of new vehicular and pedestrian access, associated open space, parking and landscaping'.
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Appeal B Reference: APP/X1545/W/24/3350231

Land North of Heybridge Swifts Football Club, Scraley Road, Great Totham, Essex, CM9 4BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Charles Church against the decision of Maldon District Council.
 - The application Reference is FULM/MAL/23/00649.
 - The development proposed is 'Use of land as offsite biodiversity, landscaping and drainage areas in connection with adjacent proposed residential development'.
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Decision Appeal A

1. The appeal is allowed and planning permission is granted for 'Full planning application for a residential development of 281 dwellings, including affordable homes and bungalows, formation of new vehicular and pedestrian access, associated open space, parking and landscaping' at Land to the East of Broad Street Green Road, Heybridge, CM9 4BE in accordance with the terms of the application, Reference FULM/MAL/23/00648, subject to the conditions in the Schedule at Annex A.

Decision Appeal B

2. The appeal is allowed and planning permission is granted for 'Use of land as offsite biodiversity, landscaping and drainage areas in connection with adjacent proposed residential development' at Land North of Heybridge Swifts Football Club, Great Totham, CM9 4BE in accordance with the terms of the application, Reference FULM/MAL/23/00649, subject to the conditions in the Schedule at Annex B.

Preliminary Matters

Site Visits

3. I carried out an extensive unaccompanied site visit on the afternoon of 17 February. This included familiarisation with the village of Heybridge as a whole; recent and ongoing development of the Garden Suburb to the west of Broad Street Green Road; the appeal sites themselves and surroundings including the relationship of existing dwellings; walking the footpath from Broad Street Green Road, passing Lofts Farm, to Scraley Road; walking part of the circuit of the Main Lake in the Chigborough Lakes Nature Reserve (from Scraley Road); and Chigborough Road and its entrance to the Nature Reserve. I took particular note of traffic/pedestrian conditions along Broad Street Green Road and I also drove the route into Maldon Town Centre, towards the end of the afternoon, observing peak hour traffic flows.
4. At the end of the Hearing, both the Appellant and the Council confirmed that they were content that I should make any additional site visit unaccompanied. This was agreed by all present, and I indicated that I would undertake a further visit on the following day which would enable me to observe morning peak traffic flows. In addition, in light of the brief discussion at the Hearing about heritage assets at Lofts Farm, I made a careful assessment of these assets from the public footpath leading to and around the farm.

Environmental Impact Assessment

5. The applications were accompanied by an Environmental Statement, in two volumes, with an accompanying non-technical summary which covered the two sites in combination.
6. Following the submission of the applications and Environmental Statement, further technical discussions took place with the Council's ecology consultants resulting in the submission of further information.
7. In addition, it was noted that paragraph 3.25 of the Environmental Statement erroneously described the scheme as including dwellings ranging 'between 1.5 to 2.5 storeys in height'. It should have read 'between 1 to 3 storeys in height'.
8. As a result, a review of the Environmental Statement was undertaken to establish the potential implications the change in building heights would have on the conclusions reached in terms of the significance of environmental effects.
9. It was established that the assessments carried out were not solely based on description but were also based on the proposed plans and elevations which clearly showed buildings ranging between one and three storeys. As a result, it was concluded that the bearing on the landscape and townscape visual impact assessment was very limited and that the original conclusions remained accurate and valid. Having reviewed all of the relevant material, I am satisfied that this conclusion is well founded.
10. From my examination of all of the environmental information, I am content that the Environmental Statement is satisfactory in terms of Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Reasons for refusal, changed circumstances and Statement of Common Ground

Reasons for Refusal

11. In relation to Appeal A, the Council gave five reasons for refusal which, in short, were:
 - (i). the application site lies outside the defined settlement boundaries where policies of restraint apply;
 - (ii). inadequate provision to secure the delivery of affordable housing;
 - (iii). absence of measures to secure infrastructure contributions;
 - (iv). lack of adequate information relating to safeguarding European Protected Species (Priority farmland bird species); and
 - (v). absence of measures to secure financial contribution towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy.
12. For Appeal B, the summary reasons for refusal were:
 - (i). the proposal, related to Appeal A, is outside the defined settlement boundary and subject to policies of restraint;
 - (ii). absence of measures to secure the management and maintenance of the public open space; and
 - (iii). lack of information on European Protected Species (Door Mouse).

Changed circumstances and Statement of Common Ground

13. In its initial Statement of Case, the Council confirmed that additional information had been provided relating to European Protected Species sufficient to address reason for refusal 4 of Appeal A and reason for refusal 3 for Appeal B. Further, it was considered that subject to a satisfactory agreement being entered into, the Council would no longer pursue reasons for refusal 2, 3 and 5 of Appeal A and reason for refusal 2 of Appeal B.
14. Following the publication of the amended National Planning Policy Framework (the Framework) on 12 December 2024, and changes to the calculation of housing land supply, the Council indicated that its supply of 6.35 years at the point of determining the planning applications could not be relied on. Based on the new Standard Method, and a required additional 5% buffer, the Council's housing land supply stands at 2.70 years for the purpose of these appeals.
15. Further, the Council accepts that, as it can no longer demonstrate a 5-year housing land supply, it is clear that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As the Council's original assessment of the applications did not identify any harm to protected areas or assets of particular importance, or any other adverse impacts, that would provide a strong reason for refusing the proposals, it accepts that permission should be granted.
16. As such, it considers that it can no longer reasonably defend its position regarding housing land supply and the previously cited conflict with policies S1 and S8 of the Maldon District Local Development Plan. Accordingly the Council therefore confirmed that it was no longer pursuing reason for refusal 1 of Appeals A and B.

17. A Statement of Common Ground, dated 24 January 2025, confirms the above with further agreement that once a section 106 Agreement is completed the remaining outstanding reasons for refusal will have been addressed.

Section 106 Agreement

18. The legal agreement is between the Appellant, the owner of the freehold interest in the appeal sites, the owner of the freehold interest in the 'Skylark Land', Maldon District Council and Essex County Council. It is in agreed two counterparts as of necessity. The certified completed Agreement is dated 14 March 2025.
19. The Agreement is supported by a Community Infrastructure Levy Compliance Statement and further details requested by me prior to and during the Hearing and also in subsequent correspondence. The terms of the Agreement are discussed further below.

The Development Plan

20. The development plan comprises the Maldon District Local Development Plan (2014 – 2029) adopted in July 2017 ('the Local Development Plan'). Statute and guidance requires that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
21. Policy S1 indicates that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the Framework when considering development proposals. Key principles include: the delivery of 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 alongside the effective use of land; planned growth; high quality design; conservation and enhancement of the natural environment; maintaining the identity of settlements and the rural character of the District; and minimising the need to travel with priority for sustainable modes of travel.
22. Policy S2 confirms that the majority of new strategic growth will be delivered through sustainable extensions to Maldon, Heybridge and Burnham-on-Crouch in the form of Garden Suburbs and Strategic Allocations.
23. In turn, Policy S8 restricts development outside these areas, and other defined settlement boundaries, in order to protect the landscape, its natural resources, ecological value and its intrinsic character and beauty. Outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon subject to a number of criteria, none of which would be fulfilled by the residential proposal. However, criterion j) admits green infrastructure, open space and sports facilities (in accordance with Policies N1, N2 and N3).
24. Although the proposals would be in conflict with the spatial strategy as a whole, the proposed development would be located on the edge of one of the three most sustainable settlements in the District which has been identified for planned growth. However, Policy S8 must be regarded to be out-of-date given the acknowledged shortfall in housing land supply, the failure to meet anticipated housing completions on allocated sites and the scale of unplanned development on windfall greenfield sites. It is also relevant to note that the Council does not allege any harm to those elements which Policy S8 seeks to protect.

25. The foregoing inevitably limits the main issues to be decided. Given the inextricable link between the two appeals, I have identified the main issues in combined form.

Main Issues

26. The main issues are:

- 1) Whether the planning obligations in the Planning Agreement under section 106 of the Town and Country Planning Act 1990 would secure appropriate and acceptable mitigation for:
 - (a) the provision of infrastructure to meet the needs of the development including measures to secure the delivery of public open space and its subsequent maintenance and management; and
 - (b) measures to avoid any increase in recreational disturbance on the nearby Blackwater Estuary Special Protection Area and Ramsar sites¹ through a financial contribution towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy.
- 2) Whether there are other material considerations which tell against or support the proposals.
- 3) Whether any adverse impacts arising from the above would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies in the National Planning Policy Framework ('the Framework') taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

Reasons

Issue 1:

Whether the planning obligations in the Planning Agreement under section 106 of the Town and Country Planning Act 1990 would secure appropriate and acceptable mitigation

- (a) **the provision of infrastructure to meet the needs of the development including measures to secure the delivery of public open space and its subsequent maintenance and management**

(i) **Affordable Housing**

27. The parties agree that there is a significant need for affordable housing both at a national and at a local level.
28. By way of background, there has been a longstanding recognition, by the Government, of the depth of the national housing crisis and the continuing need to address affordable housing requirements. The consequences of not providing sufficient affordable homes has become increasingly more acute for those in need.

¹ There are five designations associated with the estuarine habitats present in the Blackwater Estuary (1.1km from the appeals sites):- The Essex Estuaries Special Area of Conservation (SAC); Blackwater Estuary Special Protection Area (SPA); Blackwater Estuary Ramsar site; Blackwater Estuary Site of Special Scientific Interest (SSSI); and Blackwater, Crouch, Roach and Colne Estuaries Marine Conservation Zone (MCZ).

29. The Local Housing Needs Assessment (2021) identifies a total need for 209 affordable dwellings per annum over a 20 year period from 2020 to 2040. The average to date lies at 89 affordable homes per annum, equivalent to 43% of identified needs. This raises the requirement for the 5-year period from 2024/25 – 2028/29 to an average of 305 affordable dwellings per annum to address the backlog.
30. The gravity of the situation can be demonstrated by the Appellant's illustration that if 40% of the future 5-year housing land supply came forward as affordable homes, this would equate to an average of 139 affordable dwellings. However, the current rolling average (gross) is just 21% of total housing completions. Based on that trend, 73 affordable homes per annum could be anticipated.
31. In terms of real people, 1,189 households were on the Housing Register at 31 March 2024 with 245 households specifying a preference to live in Heybridge Civil Parish. In addition, successful applicants for affordable housing face lengthy and increasing waiting times in the order of 12 – 18 months (average). Average bids per property outstrip availability by wide margins (e.g. 36 bids per single two-bedroom affordable dwelling).
32. It is evident that past provision has failed to meet needs and that current needs are more apparent, serious and urgent. The proposal would deliver 140 affordable homes as set out below.
33. The majority of the appeal site lies within the Maldon North sub-area where Local Development Plan Policy H1 seeks 30% affordable housing. The remainder, in the north-eastern part of the site, is located within Great Totham Parish and the Northern Rural sub-area where a 40% contribution is applicable. The initial offer of 40% affordable housing was increased to 50% site coverage at appeal stage.
34. The proposed tenure split, as requested by the Council, will be 75% (105 units) affordable rent and 25% (35 units) intermediate housing which reflects the requirements of Policy H2 of the Local Development Plan. Some 95 of the units would be one and two-bedroom homes.
35. Of these, the affordable rent homes would include 14 one-bedroom bungalows; eight one-bedroom ground floor apartments; and two, two-bedroom, two-storey houses, all built to M4(3) wheelchair user standards. The same standards would apply to seven of the intermediate housing units in the form of one-bedroom ground floor apartments. The remaining 126 affordable homes (both tenures) would achieve M4(2) 'accessible and adaptable' specification.
36. In addition, as the 50% affordable housing commitment results in a residual 0.5 of a dwelling, a financial contribution of £128,500 is to be made, equivalent to that proportion of a three-bedroomed affordable rent dwelling.
37. There is no dispute that there is a chronic affordable housing need within the District as a whole. The provision of affordable housing is necessary to make the development acceptable in planning terms and it is directly related to the development. Provision in excess of the policy requirement remains fairly and reasonably related in scale and kind, having regard to the acute need for such housing.

(ii) Health – NHS Contribution

38. The NHS contribution falls to be paid on instalments corresponding with the phasing of the development. This would result in a total of £139,300 to be used by the Mid and South Essex Integrated Care Board to provide extra primary care in the vicinity of Maldon and Heybridge, on receipt of a document detailing a project to be undertaken that satisfies the purposes for which the contribution is to be paid.
39. The contribution reflects the increased demand for primary health care arising from the development against a deficit of primary healthcare capacity. Local Development Plan Policy I1 sets the basis for the contribution. The sum reflects the multiplier of the additional population to be served, average floor area required and up-to-date building costs.² This contribution is a material consideration as it meets the relevant tests.

(iii) Open Space Scheme

40. The location and extent of the public open space is generally shown in the application plans for approval. The open space scheme, to be approved before the occupation of any dwelling, will provide further details of the design and layout of the respective areas, including equipment, drainage features, access arrangements, street furniture, fencing and landscaping.
41. This will be supplemented by a maintenance schedule and mechanism for transfer of the open space to a management company following the laying out of the open space on each phase, before the occupation of more than 90% of the dwellings in each phase.
42. The provision of public open space, and its related management and maintenance, is a legitimate requirement of Policies N1, N3 and I1 of the Local Development Plan. In this instance the level of provision, significantly in excess of the policy requirement, reflects the ethos of a landscape-led scheme with design quality to the forefront. Again, the obligation is a material consideration.

(iv) Biodiversity Works

43. The implementation of the biodiversity improvements to be delivered on Appeal site B (the biodiversity land) are set out in three drawings in the First Schedule to the Agreement. Approval of a Biodiversity Works Management Plan is to be secured prior to the occupation of any dwelling and the works are to be undertaken before the earlier of the occupation of more than 80% of the dwellings in phase three or the occupation of more than 150 dwellings on the development. The Management Plan is also to set out future management, maintenance and monitoring of the works.
44. Although the proposals pre-date the mandatory requirement for a minimum of 10% biodiversity net gain, Policy N2 indicates that all development proposals should seek biodiversity net gain where possible. The provision of biodiversity works would be consistent with both local and national policies that seek to improve biodiversity and to contribute to and enhance the natural environment.

² NHS Mid and South Essex – letter dated 13 September 2023

(v) Skylark Plot Scheme

45. Mitigation measures are to be provided for skylarks in the form of two skylark plots within an arable crop field (planted with a winter wheat sown cereal crop) on land to the north-east of the sites. Full details of the scheme, including a programme for implementation, ongoing management and monitoring for a period of ten years, following initial provision, is to be provided prior to commencement of the development. In turn, the owner of the skylark land will be bound by the terms of the scheme. This obligation represents proportionate and necessary mitigation.

(vi) Education Contribution

46. Contributions will fall due for both primary and secondary education purposes including the design and delivery of facilities at a location that in the opinion of the Education Authority serves the development. The Agreement sets out the mechanism for payments related to the progress of the development.
47. The contributions are based on a formula of the pupil product multiplied by the cost generator, namely £17,268 for primary education and £23,775 for secondary education.
48. Local Development Plan Policy I1 requires developers to contribute to infrastructure of this nature by way of mitigation. The development would sit within the priority admission area for Heybridge Primary School, which is at, or close to, capacity in most year groups. Funding would be used by way of contribution to a new school in the locality. In terms of secondary education, the priority admission school would be the Plume School in Maldon. There is a sustained need for additional places to which the contribution would be applied.³
49. The Education Authority has confirmed that there are sufficient childcare places available in the locality and a contribution is not required in this regard. Similarly no contribution is sought for post-16 education and school transport.
50. However, in accordance with the Essex County Council Developers' Guide to Infrastructure Contributions (Revised 2023), the submission of an Employment and Skills Plan forms part of the section 106 Agreement with the aim of securing local employment opportunities and increased skills.
51. The education contributions and Employment Skills Plan meet the relevant tests in order to be taken into account.

(vii) Library Contribution

52. A contribution of £77.80 per dwelling is to be made towards the upgrading of existing facilities at Maldon Library (including any mobile library and outreach services that serve the development) to include, but not limited to, additional furniture, technology and stock. Again, payment is to be made on an incremental basis corresponding with the phasing of the development.⁴
53. The justification for the contribution flows from Policy I1, Infrastructure and Services, and the Infrastructure Contributions Guide reinforces the roles and importance of Library services and the related costs per household of meeting the additional demands arising from the development. The contribution is justified.

³ Letter from Essex County Council 11/08/2023

⁴ Letter from Essex County Council 11/08/2023

(viii) Residential Travel Plan and Monitoring Fee

54. This represents a package of measures to promote sustainable travel. The first annual payment of the monitoring fee will fall due prior to first occupation of any dwelling with payments continuing until one year after the final occupation of the development. Further, before occupation of the first dwelling, a Residential Travel Plan is to be submitted for approval, accompanied by the appointment of a Residential Travel Plan Co-ordinator and employment until one year after the occupation of the final dwelling.
55. The scheme is to be monitored through the submission of annual traffic counts against the objectives and aims of the travel plan targets to reduce single occupancy car journeys to and from the site. The first occupier of each dwelling is also to be provided with an agreed Residential Travel Information Pack and travel vouchers for each eligible member of the household and access to an online tool to generate personalised travel plans. The package of measures reflects Local Development Plan Policy T2, and related guidance. The obligation is a material consideration.

(ix) Maldon Garden Suburb Highway Improvement Contribution and Passenger Transport Service Improvement Contribution

56. The Fourth Schedule, Part Four, of the section 106 Agreement provides for a 'Maldon Garden Suburb Highway Improvement Contribution' ('the Highway Contribution') in the sum of £2,800,000 to be used *'for strategic and local infrastructure, as identified in Malden District Council's Infrastructure Delivery Plan, towards highway capacity improvements, or sustainable travel measures, as considered necessary across the Garden Suburbs'*.
57. It also incorporates a 'Passenger Transport Service Improvement Contribution' ('the Passenger Transport Contribution') of up to £750,000 to be utilised *'towards passenger transport improvements for bus services from Witham, Colchester and Maldon'*.

The Highway Contribution

58. By way of background, the Highway Authority's consultation response to the planning application stated:

*'The Highway Authority has undertaken extensive investigation and analysis of the submitted supporting documentation, and all additional information supplied by the applicant. **The submitted Transport Assessment is considered robust and the Highway Authority is satisfied that the development will not have a significant or severe impact at this location, or on the wider highway network.***⁵

Consequently, the Highway Authority is now satisfied that the development proposal is acceptable in highway and transportation terms, subject to a comprehensive package of mitigation measures for sustainable transport measures, and as necessary capacity enhancements on the network, to be secured by condition or legal obligation.'

Mitigation measure no. 5 required:

'Provision of a contribution of up to £2,800,000 (two million-eight hundred-thousand pounds index linked), payable to Essex County Council, for strategic and local infrastructure, as identified in Maldon District Council's Infrastructure Delivery Plan, towards highway capacity improvements, or sustainable travel measures, as considered necessary, across the Garden Suburbs'.

⁵ Inspector's emphasis

Reason: *To ensure deliverability of the wider infrastructure needs as set out in the Local Development Plan.'*

59. The response appears to be inconsistent at best, and contradictory at worst, in so far as it confirms, on the one hand, that the development will not have a significant or severe impact on the highway network, and, on the other, it seeks '..... as necessary capacity enhancements'.
60. The consultation response cited the Highway Authority's Development Management Policies and Policies T1 (Sustainable Transport) & T2 (Accessibility) of the Local Development Plan. Again, there is no express reference to highway infrastructure provision or improvements that were being sought.
61. In turn the Planning Officer's Report confirms the Highway Authority's position as set out above. It provides nothing more in relation to the £2,800,000 contribution that the Highway Authority had identified.
62. The Community Infrastructure Levy (CIL) Compliance Statement was submitted shortly before the Hearing. For **Test 1** (necessary to make the development acceptable in planning terms) it states:

*'The provision of satisfactory highway safety and capacity is required by Policies H4, T1, T2 and I1 of the LDP. **ECC Highways have identified that the development would have an adverse impact on the safety and capacity of the local highways network,**⁶ and public transport provision, for all users. Therefore, a financial contribution towards mitigating this adverse impact is necessary to make the development acceptable'.*
63. The alleged adverse impact on the safety and capacity of the local highways network is again not quantified and the statement runs counter to the first paragraph of the earlier consultation reply.
64. In terms of **Test 2** (directly related to the development) the reason given is:

'The potential effects of increased population on the local highway network and efficacy of public transport are directly related to the development proposed'.
65. And **Test 3** (fairly and reasonably related in scale and kind to the development) it is said:

'The financial contribution sought is that which ECC Highways has advised is necessary to mitigate the adverse impacts of the development and, therefore, is considered to be fair and reasonable'.
66. Following my review of the document, the Inspectorate wrote to the Council as follows:

'The Inspector has reviewed the CIL Compliance Statement and will wish to be informed, either by direction to existing documentation, or in the form of a supplementary note, on the following:

.....
ii) the basis/calculation of the £2,800,000 for strategic and local highways infrastructure (ECC letter dated 29/01/2024 refers'

⁶ Inspector's emphasis

67. In the absence of further information, I raised the matter at the Hearing prior to the discussion on Issue 1 (section 106 Agreement). I was subsequently provided with a range of documents including the Essex Planning Obligations SPD 2023; the Maldon Infrastructure Delivery Plan Update May 2014; and the Essex County Council Developers' Guide to Infrastructure Contributions Revised 2020.
68. During the subsequent discussion it was apparent that none of these took clarification materially further forward. Whilst the Infrastructure Delivery Plan Update in Section 4 (Table 6) sets out a *'list of infrastructure required to deliver growth, potential funding sources and funding gap'* including Transport Infrastructure, it was clear from Section 6, Table 7, *'Pooling of Section 106 contributions'* that those contributions related to, and were to be apportioned to, sites allocated for development in the Local Development Plan under Policy S2 (Strategic Growth). It was agreed that the Infrastructure Delivery Plan did not include the appeal site.
69. It became evident that this matter could not be clarified at the Hearing. I therefore requested further information as to the nature and calculation of the contribution within one week following the Hearing.
70. The information relating to the Highway Contribution request (dated 25 February 2025) arrived on 4 March 2025.⁷ It made reference to the 2014 Infrastructure Delivery Plan and explained that the original apportionment of costs was based on the maximum of five pooled contributions as applicable at that date. It went on to identify the average per dwelling contribution, in the sum of £10,000 for two of the Policy S2 sites, to arrive at £2,800,000 based on 281 dwellings (rounded down).
71. The response also explained that *'the contribution would allow a flexible approach to delivering network capacity improvements as necessary, but also being able to provide much needed improvements to Active Travel in the vicinity of the site and Heybridge, with several Local Cycling and Walking Infrastructure Plan (LCWIP) routes identified in and around Heybridge'*.
72. Notwithstanding this additional information, I invited further clarification:⁸
'..... the Inspector invites further clarification on how the funds which are being sought would fulfil the three statutory tests: i.e. 'necessary to make the development acceptable in planning terms; directly related to the development and whether they are fairly and reasonably related in scale and kind to the development'.

Whilst an explanation has been provided of the residential unit/total contribution, the three tests need to be considered in the round and related to the conclusions of the Appellant's Transport Assessment; the Statement of Common Ground; the Development Plan; and any other relevant information'.
73. The Council's subsequent response dated 10 March 2025,⁹ invited referral to the Council's CIL Compliance Statement and its reference to the three tests.
74. With all this in mind, and with due consideration to the Appellant's response,¹⁰ Policy I1 of the Local Development Plan, amongst the policies drawn to my attention by the Council, indicates:

⁷ Document O*

⁸ Document P*

⁹ Document Q*

¹⁰ Document R*

Developers will be required to contribute towards local and strategic infrastructure and services necessary to support the proposed development In addition, development proposals within 'the' [sic] each of the strategic growth areas (including all sites within the Garden Suburbs and Strategic Allocations as identified in Policy S2) will be expected to contribute collectively and proportionally towards delivering the necessary infrastructure requirements which are related to the respective strategic growth areas'

75. The appeal site is not one of the plan's strategic allocations and, thus, the generality of seeking contributions from other developers is grounded in the words '*necessary to support the proposed development*'. In addition, it falls outside the ambit of the Infrastructure Delivery Plan.
76. The Council has also referred me to Local Development Plan Policy S4 'Maldon and Heybridge Strategic Growth'. This explains that strategic developments in the North Heybridge Garden Suburb will incorporate a number of key infrastructure elements including '*a new outer relief road to the north of Heybridge'*
77. Tellingly, it identifies significant infrastructure constraints which will strictly limit the capacity for development in excess of that set out in Policy S2; and any such development will be resisted unless it can be demonstrated it can be accommodated without prejudice to the strategic allocations, or planned infrastructure improvements. No highway infrastructure constraints or prejudice is alleged arising from the appeal scheme. Further, neither Policy H4, T1 nor T2 provide a direct route to the contribution.
78. The test of necessity demands '*quantified evidence of the additional demands on facilities or infrastructure which are likely to arise from the proposed development; and details of existing facilities or infrastructure, and up-to-date quantified evidence of the extent to which they are able or unable to meet those additional demands*'.¹¹ There is no such evidence before me.
79. Whilst the Council has sought to justify the contribution based on the per dwelling sum from two of the strategic sites, any contribution must have an inextricable link with the infrastructure needed to mitigate additional demands. That has not been made out. Nor has any indication been provided as to what infrastructure would, or might, be funded.
80. Overall, it is irrefutable that there is no justification for the Highway Contribution within the section 106 Agreement. No specific harm is alleged; there is no conclusive need for mitigation; the manner in which the funds would be applied has not been explained; and the calculation derives from that applied to Policy S2 allocations.
81. The inevitable conclusion is that the contribution is being sought as a contingency for something yet to be identified or quantified without any reasonable level of precision or transparency. Hence, it does not meet the required tests.
82. I conclude that this part of the Agreement is not compliant with regulation 122 of the Community Infrastructure Regulations 2010 (as amended). Therefore, in accordance with paragraph 8.15 of the Agreement this obligation '*shall not apply and not have any force nor effect*'.

¹¹ Planning Inspectorate – Planning obligations: good practice advice (Updated 5 February 2025)

The Passenger Transport Contribution

83. The Passenger Transport contribution is supported by a breakdown of the costs associated with augmenting the existing bus services that would serve the development. In this regard, the intention would be to introduce evening and Sunday services, where there is currently none, to link with the Greater Anglia Rail Network at Witham Station. This is said to reflect the long-term aspiration of Maldon Town Council in order to address the needs of London/ Colchester/ Norwich commuters; a growing leisure market; the various Witham employment areas; a direct link to Maldon Hospital; and Maldon and Witham town centres.¹²
84. I am satisfied, on the basis of all that is before me, that this contribution meets the three statutory tests and is fully justified.
- (b) Measures to avoid any increase in recreational disturbance on the nearby Blackwater Estuary Special Protection Area and Ramsar sites through a financial contribution towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (Essex Coast RAMS)**
- (i) Essex Coast RAMS Contribution**
85. The Conservation of Habitats and Species Regulations 2017 (as amended) imposes a duty on the competent authority to consider whether a proposal may have a significant effect on the conservation objectives of designated sites either alone or in combination with other plans and projects. The Environmental Statement provides a full description of the relevant designated sites and their qualifying features.
86. The conservation objectives for the Essex Estuaries Special Area of Conservation are¹³: *'Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring: the extent and distribution of qualifying natural habitats; the structure and function (including typical species) of qualifying natural habitats; and the supporting processes on which qualifying natural habitats rely'*.
87. The conservation objectives for the Blackwater Estuary Special Protection Area are:¹⁴ *'Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring; the extent and distribution of the habitats of the qualifying features; the structure and function of the habitats of the qualifying features; the supporting processes on which the habitats of the qualifying features rely; the population of each of the qualifying features; and the distribution of the qualifying features within the site'*.
88. The Blackwater Estuary Ramsar site¹⁵ fulfils five of the criteria for identification of a Wetland of International Importance namely: diversity of saltmarsh habitat (criterion 1); the invertebrate fauna is well represented and includes at least 16 British Red Data Book species (criterion 2); the site supports a full and representative sequences of saltmarsh plant communities covering the range of variation in Britain (criterion 3); the site supports an internationally important

¹² Hearing Document N – Email dated 25 February 2025 from ECC Integrated Passenger Transport Unit

¹³ European Site Conservation Objectives for Essex Estuaries SAC (UK0013690)

¹⁴ European Site Conservation Objectives for Blackwater Estuary (Mid-Essex Coast Phase 4) Special Protection Area Site Code: UK9009245

¹⁵ Information Sheet on Ramsar Wetlands (RIS)

assemblage of waterfowl (criterion 5); and occurrence of dark-bellied brent goose, grey plover, dunlin and black-tailed godwit populations in winter at levels of international importance (criterion 6). It is an expectation that such sites should be managed to maintain their ecological character and retain their essential functions for future generations.

89. The appeal sites fall within the Zone of Influence of the above sites where new residential development is likely to have a significant effect when considered alone, or in combination, on the qualifying features of the designated sites due to the risk of increased recreational pressure. Natural England advises that if the measures identified in the Essex Coast RAMS are implemented, they will be effective and sufficiently certain to prevent an adverse impact on integrity for the duration of the proposed development.
90. The Essex Coast RAMS Habitat Regulations Assessment Strategy document 2018-2038 identifies a detailed programme of strategic mitigation measures which are to be funded by developer contributions from residential development schemes. It identifies an overall cost for the mitigation package for the period up to 2038 apportioned on a per dwelling contribution. In this regard, the section 106 Agreement secures a sum of £163.86 per dwelling.
91. In my opinion, reflecting the advice given by Natural England, on the basis of having secured the necessary financial contributions by way of mitigation, there would be no adverse impact on the sites from recreational pressures. Consequently, as the competent authority, I conclude that the adverse effects on the integrity of the sites can be ruled out beyond all reasonable scientific doubt.
92. The basis of the contribution per dwelling is set out in the Essex Coast RAMS Supplementary Planning Document (SPD), following advice by Natural England. The SPD contains a comprehensive costing of the overall mitigation package apportioned to a per dwelling contribution (index linked). The obligation is clearly evidenced and is an essential pre-requisite to facilitate the development.

Issue 2:

Whether there are other material considerations which tell against or support the proposals

Ecology – site specific and local considerations

93. The fundamental concern of local residents is that the Appellant and the Council have not given sufficient recognition to the importance of the appeal sites in terms of habitat and their role as an essential part of the wildlife corridor from the Blackwater Estuary north to Totham Ridge.
94. In this regard, the appeal sites are located some 500 metres north of the Blackwater Estuary and form part of a swathe of open land containing significant water bodies within former quarry workings. Chigborough Lakes, including Appeal site B, is identified as a Local Wildlife Site (LoWS).
95. This site, of local significance, supports a dozen red-listed bird species. Many of the species from the LoWS use the adjoining fields to feed. In addition, bats, including three species of Principal Importance, will forage around the development sites. The lake also hosts migrant wildfowl during winter months. Birdlife in the locality has been the subject of regular study with some 110 species recorded in the 2023 reporting period.

96. The appeal sites are currently managed with conservation in mind, in combination with the significant biodiversity and nature recovery measures that have been undertaken at Lofts Farm. These include: the planting of 335 metres of new hedging; coppicing and layering of 1,600 metres of hedging; 2 hectares of newly planted woodland; 3 hectares of field margins with pollen rich or wild bird food mixes with the aim of establishing wildlife corridors between South Wood to the north and Chigborough Lakes. Lofts Farm is also a contributor to the RSPB's 'Operation Turtle Dove' scheme.
97. The loss of Appeal site A to housing, and the extension of the urban edge up to the boundary of the LoWS, would inevitably result in the removal of managed natural habitat and a localised displacement of wildlife that currently use or over-fly the land. In turn, Appeal site B, albeit retained as open space, would take on a different character with 'low quality grassland' being replaced with generic 'wildflower mix' and reedbed which is already common in the locality.
98. Nonetheless, the proposals incorporate the retention of important boundary trees and hedgerows, notably along Scraley Road and Broad Street Green Road (save for the provision of a single pedestrian access and single vehicular access respectively) and provide for substantial native planting within the site and along the boundary with the access road to Lofts Farm.¹⁶
99. The combined schemes will deliver a gain of 0.74 biodiversity units; a 100% gain in hedgerow units; and 43.46% gain of watercourse units. The creation, establishment, and management of the above habitats would be included within a Landscape and Ecological Management Plan (LEMP). In addition, a Biodiversity Audit would be carried out at regular intervals to ensure that the created habitats were performing as intended and to design and implement remedial actions as might be required.
100. Nonetheless, the Environmental Statement acknowledges that the proposals, with the related mitigation measures, would have minor adverse long-term impacts on Chigborough Lakes LoWS and on wintering and breeding birds and an overall conclusion that residual effects would be negligible.
101. Whilst the adjacent lake lacks public access, the addition of some 281 homes is likely to place increased recreational pressure and disturbance on the lakes and wildlife refuges within the Essex Wildlife Trust's Nature Reserve, that form part of the LoWS, to the east of Scraley Road.
102. There is a hierarchy of legislation and policy imperative aimed at protecting and enhancing the natural environment. Local Development Plan Policy S1 'Sustainable Development' embraces the multi-faceted nature of 'sustainable development' including the need to deliver homes alongside the mandate to conserve and enhance the natural environment. Policy N1 recognises the importance of green infrastructure networks and corridors.
103. Policy N2 indicates that all developments should seek to deliver net biodiversity gain where possible. Proposals that are likely to affect the conservation value or biodiversity value of designated sites will not normally be permitted. The supporting text confirms that the Council will seek to protect, restore and

¹⁶ Environmental Statement Appendix 10.5 – Biodiversity Net Gain Assessment indicates 443 urban trees in the final design and 105 'larger' rural trees

enhance sites of biodiversity interest by affording appropriate weight to international, national and local sites. This broadly reflects paragraphs 187 and 188 of the Framework.

104. It is evident that the LoWS is very important for the protection and conservation of the District's wildlife habitats.¹⁷ Given the adverse effects on habitats over the years, there has been a growing recognition of the importance of creating networks and interconnected habitats. In this regard, the Essex Local Nature Recovery Strategy was subject to consultation in the autumn of 2024 and awaits publication in its final form. Although all public authorities must 'have regard to' any relevant Nature Recovery Strategy,¹⁸ the emerging Essex strategy is not, as yet, a document which is capable of informing the development management process.
105. Looked at in the round, it is clear that the proposals would diminish the inherent ecological value of the appeal sites. However, there is no statutory protection for LoWS, unlike, for example, Special Areas of Conservation. In addition there is no recognition of 'buffer zones' or comfortable corridors for passage.
106. Mitigation of effects is however an integral component of the development, supported by draft planning conditions that would ensure sensitive construction management (through a Construction Environment Management Plan for Biodiversity) and an overall Biodiversity Enhancement Strategy to deliver bespoke biodiversity enhancements. The latter would be supported by a Landscape and Ecological Management Plan which would be subject to ongoing monitoring and opportunity for review if the conservation aims of the plan were not being met.
107. As referenced in the section 106 Agreement, adequate mitigation has been secured for sensitive European designated habitat sites and protection for skylarks. In addition, there are confirmed measures to safeguard hazel dormice if found to be present on the land.
108. Finally, although it was suggested that the proposal would only make a minor contribution to housing supply, and better sites could be found, the Government's objective is to significantly boost the supply of homes and to maintain a supply of specific deliverable sites as defined in paragraph 78 of the Framework. Absent such supply, there will be a need for applications to be considered on individual merit until such time as effective plan-led measures are put in place.

Highway and Transport Considerations

109. A number of local representations refer to increased traffic and the related implications for congestion and highway and pedestrian safety especially along Broad Street Green Road.
110. In this regard, the proposed development includes measures to improve safety along Broad Street Green Road, by reducing the speed limit from 40mph to 30mph (subject to a Traffic Regulation Order), introducing pedestrian crossing points on Broad Street Green Road, including a zebra crossing (subject to the

¹⁷ Planning Practice Guidance – Natural environment – paragraph 013 Reference ID:8-013-20190721 ' Locally designated 'Local Wildlife Sites' are areas of substantive nature conservation value and make an important contribution to ecological networks and nature's recovery. They can also provide wider benefits including public access (where agreed)'

¹⁸ Section 40 of the Natural Environment and Rural Communities Act 2006 as amended by the Environment Act 2021

implementation of the 30mph speed limit), and Scraley Road and footway and bus stop improvements.¹⁹ The impact of additional traffic on the surrounding highway network has been found to be acceptable to the Highway Authority.

111. By way of background, traffic surveys were undertaken in 2022 to establish peak hour traffic flows and queue lengths at nine junctions. Junction capacity analysis was also carried out at each end of the new link road between Langford Road and Broad Street Green Road. The scope of the assessment, including the impact of committed developments, national trip generation rates and the assignment and distribution of traffic generated, were the subject of prior agreement with the Highway Authority. Walking and cycling routes, the availability of public transport and collision data were also assessed.
112. Whilst local residents speak of traffic queues and delayed journeys, particularly in the direction of Maldon, the junction capacity analysis undertaken as part of the Transport Assessment on the four junctions (including the site access) that would experience increased peak hour traffic flows above 5%, found that driver delay arising from the proposal would be minimal.
113. In the absence of any contrary technical evidence, and taking due account of local experience and perception, I place greater weight on the advice provided by the statutory consultee.

Directing Development to Sustainable Locations

114. The Local Development Plan, at paragraph 2.27, explains: *'The District is predominantly rural with a significant proportion of people living in dispersed communities. By containing the majority of growth within and adjacent to the main settlements, there are more opportunities for sustainable transport, maximising the potential of walking, cycling and public transport'*
115. Moreover, the Framework, at paragraph 109, calls for transport issues to be considered from the earliest stages of development proposals *'..... using a vision led approach to identify transport solutions that deliver well-designed, sustainable and popular places The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes'*.
116. In this regard, the appeal sites are located on the north-eastern edge of Heybridge. Despite being two distinct settlements, Heybridge and Maldon collectively form the District's focus for employment, retail and community facilities. The development plan's overarching spatial strategy is to direct new development to such locations. Moreover, the Garden Suburb development to the north-west will provide neighbourhood facilities, including retail, commercial and community amenities, as well as a primary school and early years childcare facility.
117. It is apparent that the scheme before me has been designed to facilitate walking and cycling with a clear street hierarchy within the site, a spine footway through the central corridor of open space and linkages to Broad Street Green Road, Scraley Road and the public footpath to the north of the site. Public transport can be accessed along Broad Street Green Road.

¹⁹ The speed reduction measures would be dependent on the attainment of a Traffic Regulation Order; the zebra crossing would be contingent on speed reduction – otherwise a dropped crossing point would be provided

118. It was drawn to my attention that the population of the village was 8,163 in 2021. New housing developments, totalling over 1,400 homes (excluding the appeal proposal) would swell the population by some 3,200, with a further increase of over 600 from the proposed development. In percentage terms, growth would be in the order of 47%. Although it was said that the settlement boundary for Heybridge is there for a reason, the passage of time has shown that plan-led sites are no longer delivering the homes that are required.
119. Further, the scale of development that has occurred has influenced, and that yet to be built will inevitably shape, the daily lives of established residents. Concerns about the capability of infrastructure to cope are understood. However, pressures on NHS services are common place and the Integrated Care Board, although acknowledging that the development would have an impact on services, has sought funding through the section 106 Agreement to support extra accommodation.
120. Additional school places would be funded in a similar manner. Whilst representations point to the lack of places, the Education Authority has assessed capacity and future demand based on its ten-year plan, and is satisfied that the effect of the development can be mitigated by financial contributions to secure an increase in pupil places.
121. Taking all of these factors into account, I consider that the proposal would nonetheless meet the objectives of securing new housing development that is well related to the existing settlement and in a sustainable location.

Making Effective Use of Land and Securing Well-designed Places

122. The appeal sites do not have any statutory landscape designation. Whilst there would be a substantial change from open grassland to housing development and public open space, the change would not be unduly marked in landscape and townscape terms given the characteristics of the landscape and the clear influence of the village edge.
123. Paragraph 129 of the Framework indicates that planning decisions should support development that makes efficient use of land taking into account a number of considerations. In this regard, the scheme provides for, amongst other things, different types of housing, a mix of densities across the site and regard to its setting. This flows from extensive pre-application engagement and an analysis of surrounding densities. The outcome is a scheme that includes a range of different character areas reflecting the transition from settlement edge to open countryside.
124. The Council acknowledges that the appearance of the development, in its widest sense, responds to its surroundings and local character; it relates positively to existing natural features; it is based on a hierarchy of well-defined streets and with active frontages to areas of high quality public open space.²⁰
125. Great Totham Parish Council highlights that the land is outside any area intended for development and express concern that the proposal, with the Garden Suburb and development to the south of Scraley Road, would result in an unacceptable urbanisation of the area.

²⁰ Officer Report paragraph 5.5.6

126. However, in my opinion, with the retention of most of the boundary hedgerows along the southern and western sides of the development site, the established enclosure to the east and substantial new planting within the site and along the northern boundary, the proposal would be sufficiently embraced and softened to minimise harm to the landscape and to the setting and character of the village.
127. Overall, I am satisfied that the proposals would be in accordance with Local Development Plan Policies D1, D2 and H4.

Designated Heritage Assets

128. Lofts Farmhouse is a Grade II Listed Building with 18th century and 19th century front ranges and a 16th century or earlier rear range. The Granary and Cartlodge are also listed for group value. The buildings nestle within a rural landscape, with well-established foreground planting, with some of the former farmland lost to lakes as a consequence of quarrying.
129. The group stands detached from the village, albeit the proximity of the settlement, most notably the development along Scraley Road and Broad Street Green Road, is apparent from the farm access track.
130. The rural landscape and detachment from the village, served by an access track bordered by fields, provides the setting in which the heritage assets are experienced. These elements make a positive contribution to the significance of the assets.
131. The proposed residential development would result in some loss of rural character on the approach to, and from, the farmstead. However, the proposal would not affect important views to, or from, the assets and the foreground lakes and established planting would ensure both physical and visual separation from the new housing. In addition, the proposed landscaping along the southern edge of the track would, in the fullness of time, increase mitigation. The negative effects would thus be very limited, thereby representing 'less than substantial harm' at the lower end of the scale.
132. Section 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
133. The Framework confirms that great weight should be given to an asset's conservation and that any harm to, or loss of significance of a designated heritage asset arising from development within its setting should require clear and convincing justification. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. I return to this in due course.

Other matters

134. Before undertaking a planning balance and overall conclusion, I have carefully considered the concerns raised at both application stage and in connection with the appeal in addition to those matters discussed at the Hearing. These include a number of themes, none of which contribute to the main planning issues that I have identified.

135. In particular, although comments have been made about flooding in the locality, the appeal sites are located entirely within an area with the lowest probability of flooding (Flood Zone 1) and there are no objections from the relevant consultee. It is also common ground that there would be a positive reduction in flood risk through the attenuation of surface water and discharge of surface water from Appeal site A at a restricted discharge rate.
136. Further, it has been confirmed that the foul drainage system in the locality, and the Maldon Water Recycling Centre, can accommodate the development. I also note that the County Archaeologist has confirmed that the historic use for quarrying has very likely removed any archaeological records from the land.
137. The relationship of the residential development with adjacent dwellings is an important consideration and can be met by a condition requiring further details of site boundary treatments, in those locations, to safeguard the living conditions of existing residents.

Planning Balance and Overall Conclusion

138. The relevant legislation requires that the appeals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, there would be conflict with Policy S8 as the proposals lie outside the defined settlement boundary for Heybridge and new residential development would not meet any of the exceptions admitted by the policy. In effect, the proposals would be in conflict with the development plan when read as a whole.
139. However, it is evident that the settlement boundaries, in particular, are out-of-date in light of the current significant deficiency in the 5-year housing land supply. The appeal proposals adjoin one of the most sustainable settlements, where strategic growth is promoted through Policy S2 and the proposals would reflect the overall spatial strategy. In turn, Policy S1 confirms that where relevant policies are out-of-date, permission should be granted unless material considerations indicate otherwise. On this basis, I attach very limited negative weight to the conflict with the defined settlement boundary for Heybridge.
140. Given that the policies that are most important for determining the appeal are out-of-date, paragraph 11d) ii of the Framework indicates that permission should be granted unless *'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination'*.
141. It is evident that the proposals would deliver a range of important benefits that would be consistent with the Government's overarching aim to deliver sustainable development and to significantly boost the supply of new homes.
142. In terms of the economic objective of sustainable development, the proposals would provide employment opportunities, including local recruitment, during the construction phase. In addition, a new resident population would increase support for local facilities and services through additional spending. These are benefits of moderate positive weight.
143. The social objective of sustainable development would be fulfilled through the delivery of new market housing in a District where there is a marked shortfall in

the 5-year housing land supply. This attracts significant favourable weight. More emphatically, the project would deliver some 140 affordable homes where there is an acute and growing shortfall with the related social implications. The commitment in excess of the policy requirement, and the overall mix and accessibility, merits very substantial supporting weight.

144. Whilst good design is a legitimate expectation of local and national policy, there is no dispute that the project before me, including the extensive open space provision and pedestrian links within and around the development, is a well-designed scheme. This merits significant favourable weight.
145. The financial contributions within the section 106 Agreement for school accommodation, health facilities and library assets are inherently to serve the additional needs arising from the development, albeit these are likely to have wider public benefit, thus attracting limited additional weight.
146. The financial contribution for passenger transport improvements, whilst being of direct benefit to residents of the proposed development, would also result in a wider public benefit of significant weight.
147. In terms of the environmental objective of sustainable development, there would be a loss of agricultural land and an implicit erosion of rural character at a very local level. These attract limited negative weight in the circumstances of this case.
148. I have indicated earlier that the proposals would diminish the inherent ecological value of the sites and have related localised implications, most notably in terms of the Local Wildlife Site. However, taking account of the measures for mitigation and the opportunity for biodiversity net gain, I attach no more than limited weight to the potential harm.
149. The less than substantial harm identified to the setting and heritage significance of the Listed Buildings at Lofts Farm is of considerable importance and weight. Nevertheless, given that the less than substantial harm to these designated heritage assets is at the lower end of the scale, I find that the substantial combination of public benefits generated by the appeal proposals, demonstrably outweigh the less than substantial harm to the significance of the designated heritage assets.
150. In light of the lack of a 5-year housing land supply, the tilted balance in paragraph 11d) of the Framework is engaged. In view of my conclusions on habitat sites and heritage, none of these matters referred to in Footnote 7 to paragraph 11 d) i. provide a strong reason for refusal.
151. Bringing all the above together, I find that the adverse impacts do not significantly or demonstrably outweigh the benefits when weighed against the policies of the Framework taken as a whole. The proposals therefore benefits from the presumption in favour of sustainable development which represents a material consideration of sufficient weight to indicate that planning permission should be granted other than in accordance with the development plan.

Conditions: Appeals A and B

152. The developments are to be begun within the statutory time period and the approved plans are listed for the avoidance of doubt and in the interests of proper planning. [Conditions 1 and 2 (Appeal B: Conditions 1 and 2)]
153. Materials of construction for Appeal A are to be as specified in the application details to reflect the character of the locality in which the site is situated. [Condition 3]
154. Details of existing site levels and proposed site levels relative to floor levels, landscaped areas and site boundaries are required to minimise ground raising in the interests of visual and residential amenity. [Condition 4]
155. It is important on health, safety, ecological and aquatic grounds to secure an assessment of any contamination present on the residential site and to ensure that any necessary remediation measures are undertaken. [Conditions 5, 6 and 13]
156. The Noise Impact Assessment's recommendations for glazing and ventilation need to be incorporated to provide future residents with acceptable living conditions. [Condition 7]
157. The implementation of the landscaping proposals and boundary treatments, including tree retention and protection, are to enhance the character and appearance of the scheme and to ensure privacy for future residents. [Conditions 8, 9 and 14]
158. Surface water drainage mitigation measures, including the prevention of run-off during construction, and a maintenance and management plan for the sustainable drainage system, are essential for the satisfactory storage and control of surface water disposal in order to prevent flooding and potential pollution of neighbouring land and buildings. [Conditions 10 – 12 (Appeal B: Conditions 3 and 4)]
159. The submission, approval and implementation of a Construction Management Plan is justified for highway safety and neighbouring residential amenity reasons. The condition discussed at the Hearing has been extended to incorporate controls on hours of working and to require details of construction and security lighting. [Condition 15]
160. The provision of car parking, cycle parking and agreement on the location of electric vehicle charging points reflects the Council's adopted parking standards. [Conditions 16 – 18]
161. A number of safeguards are to be applied relating to habitats and biodiversity, including a Construction Environmental Management Plan for Biodiversity (CEMPB); a Skylark Mitigation Strategy; a Biodiversity Enhancement Strategy (BES); a Landscape and Ecological Management Plan (LEMP); and a Wildlife Sensitive Lighting Design Scheme. [Conditions 19 – 23 (Appeal B: Conditions 5 – 7 relating to CEMPB, BES, and LEMP)]
162. The installation of superfast broadband to each home is essential for economic growth, social well-being and reducing the need to travel. [Condition 24]

163. A package of highways and transport measures are aimed at highway safety, improving public transport infrastructure and promoting sustainable travel.
[Conditions 25 – 28]
164. Finally, a condition is required to secure additional details of site boundary treatments in the vicinity of the existing dwellings adjacent to the site in order to provide appropriate privacy and to safeguard their established living conditions.
[Condition 29]
165. All of the conditions to be imposed, subject to minor rewording for clarity, are those agreed by the Appellant and the Council prior to and following discussion at the Hearing.²¹

Conclusion

166. For the reasons given above the appeals are allowed.

David MH Rose

Inspector

²¹ Hearing Document M

ANNEX A: Schedule of Planning Conditions 1 – 29 (Appeal A)

1. **Time Limit:** The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. **Conformity with Plans:** The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
 - Site Location Plan - CC-119-001
 - Master Plan - CC-119-002 Rev B
 - Detailed Layout - CC-119-003 Rev B
 - Materials Plan - CC-119-004 Rev B
 - Character Areas Plan - CC-119-005 Rev B
 - Storey Heights Plan - CC-119-006 Rev B
 - Tenure Plan - CC-119-007 Rev E
 - Refuse and Recycling Plan - CC-119-008 Rev B
 - Parking Plan - CC-119-009 Rev B
 - Phasing Plan - CC-119-010 Rev B
 - Boundary Treatment Plan - CC-119-011 Rev A
 - Cedar HT - CC-119-020
 - Lawling HT - CC-119-021
 - Heywood HT - CC-119-022
 - Holloway HT - CC-119-023
 - Beeleigh HT - CC-119-024
 - Wentworth HT - CC-119-025
 - Blackwater HT - CC-119-026
 - Limebrook HT - CC-119-027
 - Walden HT - CC-119-028
 - Mayflower HT - CC-119-029
 - Beaumont HT - CC-119-030
 - Oakwood HT - CC-119-031 Rev A
 - Limbourne HT - CC-119-032
 - Granger HT - CC-119-033
 - Plume HT - CC-119-034
 - Cromwell HT - CC-119-035
 - Victoria HT - CC-119-036
 - Farnbridge HT - CC-119-037
 - Apartment Block A Floor Plans - CC-119-050
 - Apartment Block A Elevations - CC-119-051
 - Apartment Block B Floor Plans - CC-119-052
 - Apartment Block B Elevations - CC-119-053
 - Apartment Block C Floor Plans - CC-119-054
 - Apartment Block C Elevations - CC-119-055
 - Apartment Block D Floor Plans - CC-119-056
 - Apartment Block D Elevations - CC-119-057
 - Apartment Block EFGH Floor Plans - CC-119-058
 - Apartment Block EFGH Elevations - CC-119-059
 - Apartment Block I Floor Plans - CC-119-060
 - Apartment Block I Elevations - CC-119-061
 - Development Entrance Wall - CC-119-064
 - Garage - CC-119-065
 - Bin Store - CC-119-066
 - Cycle Store - CC-119-067
 - Substation - CC-119-068
 - Landscape Strategy Plan 1 of 3 JSL4283_101 Rev B

- Landscape Strategy Plan 2 of 3 JSL4283_102 Rev B
 - Landscape Strategy Plan 3 of 3 JSL4283_103 Rev B
 - Detailed Soft Landscape Strategy (Proposed Planting) 1 of 15 - JSL4283_501 Rev A
 - Detailed Soft Landscape Strategy (Proposed Planting) 2 of 15 - JSL4283_502 Rev A
 - Detailed Soft Landscape Strategy (Proposed Planting) 3 of 15 - JSL4283_503 Rev A
 - Detailed Soft Landscape Strategy (Proposed Planting) 4 of 15 - JSL4283_504 Rev A
 - Detailed Soft Landscape Strategy (Proposed Planting) 5 of 15 - JSL4283_505 Rev A
 - Detailed Soft Landscape Strategy (Proposed Planting) 6 of 15 - JSL4283_506 Rev A
 - Detailed Soft Landscape Strategy (Proposed Planting) 7 of 15 - JSL4283_507 Rev A
 - Detailed Soft Landscape Strategy (Proposed Planting) 8 of 15 - JSL4283_508 Rev A
 - Detailed Soft Landscape Strategy (Proposed Planting) 9 of 15 - JSL4283_509 Rev A
 - Detailed Soft Landscape Strategy (Proposed Planting) 10 of 15 - JSL4283_510 Rev A
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 - Detailed Soft Landscape Strategy (Proposed Planting) 13 of 15 - JSL4283_513 Rev A
 - Detailed Soft Landscape Strategy (Proposed Planting) 14 of 15 - JSL4283_514 Rev A
 - Detailed Soft Landscape Strategy (Proposed Planting) 15 of 15 - JSL4283_515
 - Planting Schedule - JSL4283_550 Rev A
 - Proposed Basin and Swale Sections - NK020829-RPS-SI-XX-DR-D-1301 Rev P03
 - Surface Water Drainage General Arrangement Sheet 3 of 3 - NK020829-RPS-SI-XX-DR-D-1312 Rev P03
 - Foul Water Drainage General Arrangement Sheet 2 of 2 - NK020829-RPS-SI-XX-DR-D-1351 Rev P03
 - 21134.OS.104.01 - Proposed Crossings and bus stop markings – rev A
 - 21134.OS.104.03 – Visibility Splays rev A
 - 21134.OS/104.04 – Site access dimensions rev A
 - 21134.OS.104.05 - Swept-path analysis of a refuse vehicle rev A
3. **Material Samples:** The materials to be used in the construction of the development hereby approved shall be as set out within the approved Materials Plan reference CC-119-004 Rev B and in accordance with the specifications set out in the Design and Access Statement dated July 2023.
4. **Topographical survey and finished floor levels plan including landscaping:** No development shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
- a) A full topographical site survey showing existing levels including: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals; and levels of adjoining buildings and their gardens;
 - b) Full details of the proposed finished floor levels of all buildings, proposed garden levels, proposed levels along all site boundaries, and proposed levels for all hard and soft landscaped surfaces.
- The development shall be carried out in accordance with the approved details.
5. **Contamination Report:** Notwithstanding the details submitted with the application, no development shall commence, other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of underground tanks and old structures until a Contamination Investigation and Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The report of the findings shall include:

- i. A preliminary risk assessment to include historical information of how each part of the site has been used in the past;
- ii. A survey of the extent, scale and nature of contamination;
- iii. An assessment of the potential risks to:
 - a) Human health
 - b) Property (existing or proposed) including buildings, crops, livestock, etc woodland and service lines and pipes
 - c) Adjoining land
 - d) Groundwaters and surface waters
 - e) Ecological systems
 - f) Archaeological sites and ancient monuments
- iv. An appraisal of remedial options, and proposal of the preferred option(s).

This shall include timescales and phasing of remediation works and shall be conducted in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the Environment Agency's 'Land Contamination Risk Management' guidance.

The development shall be carried out in accordance with the agreed details.

6. **Remediation Scheme and Verification:** Where identified as necessary in accordance with the requirements of Condition 5, no development shall take place, other than that required to enable or carry out remediation, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved by the Local Planning Authority in writing.

The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The development hereby permitted shall not commence until the measures set out in the remediation scheme have been implemented. Exceptions may apply where remediation is incorporated as part of the wider development and cannot be completed prior to commencement. Such circumstances shall be highlighted in the remediation scheme submitted for approval.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be produced and submitted to the Local Planning Authority within 28 days.

This shall be conducted in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the Environment Agency's 'Land Contamination Risk Management' guidance.

7. **Glazing and Ventilation - conformity with Noise Impact Assessment:** Prior to the occupation of each of the dwellings hereby approved, glazing and ventilation shall have been installed to the specifications outlined in tables 10-14 of the Noise Impact Assessment by Acoustic Principles.

8. **Hard landscaping and boundary treatments:** Prior to the carrying out of any works above slab level, a timetable for the implementation of the hard landscaping works hereby approved shall be submitted to and approved in writing by the Local Planning Authority. This shall include the provision of hard landscaped areas, car parking, vehicle and pedestrian accesses, means of enclosure, gates, fences, walls, railings and other boundary treatments.

The hard landscaping works shall be carried out in accordance with the approved plans and in accordance with the agreed timetable and shall thereafter be retained as such.

9. **Soft landscaping treatments:** Prior to the carrying out of any works above slab level, a timetable for the implementation of the soft landscaping works hereby approved shall be submitted to and approved in writing by the Local Planning Authority.

The soft landscaping works shall be carried out in accordance with the details shown on the approved soft landscaping plans (detailed Soft Landscape Strategy) and with the agreed timetable and shall thereafter be retained as such.

If within a period of 5 years from the date of planting any tree or plant, or any tree planted in replacement for it is removed, up-rooted, is destroyed, dies or becomes in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

10. **Compliance with approved drainage strategy mitigation measures:** The development permitted by this planning permission shall be carried out in accordance with the approved Drainage Strategy and the following mitigation measures:

- a) Limiting the discharge from the site to the predetermined rate (as the site is part of a wider site);
- b) Providing attenuation storage (including locations on layout plan) for all storm events up to and including the 1:100 year storm event inclusive of climate change.

The mitigation measures shall be fully implemented prior to the first occupation of any dwelling on the site and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

11. **Construction run off /pollution prevention scheme:** No development shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works, and to prevent pollution, has been submitted to, and approved in writing by, the Local Planning Authority.

The scheme shall subsequently be implemented as approved prior to the first occupation of any dwelling on the site.

12. **SUDs maintenance plan and monitoring:** Prior to the first occupation of any dwelling on the site, a Maintenance Plan detailing the maintenance arrangements, and the related responsibilities for different elements of the surface water drainage system, and the maintenance activities/frequencies, shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter, yearly logs shall be maintained of the maintenance work undertaken in accordance with the approved Maintenance Plan. These records shall be available for inspection on request by the Local Planning Authority.
13. **Decontamination scheme submission:** Should the existence of any contaminated ground or ground water conditions and/or hazardous soil gases be found that were not previously identified or not considered, the site or part of the site shall be reassessed and a scheme to bring the site to suitable condition shall be submitted to and approved in writing by the Local Planning Authority within three months of the identification of the contamination or hazard. A 'suitable condition' means one that is acceptable in terms of human health, the water environment and ecosystems and cannot be determined as contaminated land under Part 2A of the Environmental Protection Act 1990.
14. **Tree retention protection plan and Arboricultural Method Statement:** Prior to the commencement of the development, Tree Protection Measures shall be installed in accordance with the Tree Protection Plan provided by Hallwood Associates in the Arboricultural Impact Assessment dated 17/04/23 (Reference HWA10739-APIII). The development shall be carried out in accordance with the recommendations of the Arboricultural Method Statement contained within the same document.

If within 5 years from the completion of the development, an existing tree is removed, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, a replacement tree shall be planted within the site of such species and size and shall be planted at such time, as specified in writing by the Local Planning Authority.

15. **Construction Management Plan:** No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include the following:
 - Safe access in / out of the site
 - The parking of vehicles of site operatives and visitors
 - Loading and unloading of plant and materials
 - Storage of plant and materials used in constructing the development
 - The storage of top soil
 - Wheel and underbody washing facilities
 - Construction signage and traffic management
 - Measures to control the emission of dust, dirt and mud during construction
 - A scheme to control noise and vibration during the construction phase, including details of any piling operations

- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- Details of how the approved plan will be implemented and adhered to, including contact details for individuals responsible for ensuring compliance
- Contact details for Site Manager and details of publication of such details to local residents
- Controls on hours of working
- Details of construction and security lighting

The approved Construction Management Plan shall be adhered to throughout the construction period of the development.

16. **Vehicle Parking:** Prior to the occupation of each dwelling, the car parking associated with that property, as indicated on the approved plans, shall have been provided. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the dwelling unless otherwise agreed with the Local Planning Authority.
17. **Cycle Parking:** Prior to the occupation of each dwelling, the details of cycle parking for each dwelling shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be provided in accordance with the approved details prior to occupation of the respective dwellings served.
18. **Electric Vehicle Charging:** Prior to the first occupation of any dwelling within a phase, details of location of electric car charging points for each dwelling within that phase shall have been submitted to and approved in writing by the Local Planning Authority. The charging points shall be provided in accordance with the approved details prior to the occupation of the respective dwellings served.
19. **Construction Environmental Management Plan for biodiversity:** Prior to commencement of the development, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP (Biodiversity) shall include, but not be limited to, the following.

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

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

20. **Skylark Mitigation Strategy:** Prior to the commencement of development, a finalised Skylark Mitigation Strategy shall be submitted to and approved by the Local Planning Authority. The strategy shall be sufficient to offset the loss or displacement of skylark breeding territories identified as lost or displaced and shall include provision of offsite measures in nearby agricultural land, prior to commencement.

The content of the Skylark Mitigation Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed compensation measure e.g. Skylark plots
- b) Detailed methodology for the mitigation measures e.g. Skylark plots must follow Agri-Environment Scheme option: 'AB4 Skylark Plots'
- c) Locations of the measures by appropriate maps and/or plans
- d) Persons responsible for implementing the compensation measure.

The Skylark Mitigation Strategy shall be implemented prior to the commencement of the development in accordance with the approved details and all features shall be retained for a minimum period of 10 years.

21. **Biodiversity Enhancement Strategy:** Prior to any works above slab level, a Biodiversity Enhancement Strategy for bespoke biodiversity enhancements, prepared by a suitably qualified ecologist, shall be submitted to and approved in writing by the Local Planning Authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures
- b) Detailed designs or product descriptions to achieve stated objectives
- c) Locations of proposed enhancement measures by appropriate maps and plans (where relevant)
- d) Persons responsible for implementing the enhancement measures
- e) Details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and in accordance with the agreed timetable and shall be retained in that manner thereafter.

22. **Landscape and Ecological Management Plan:** A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the first occupation of any dwelling on the site.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed
- b) Ecological trends and constraints on site that might influence management
- c) Aims and objectives of management
- d) Appropriate management options for achieving aims and objectives
- e) Prescriptions for management actions

- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5-year period)
- g) Details of the body or organisation responsible for implementation of the plan
- h) A timetable for ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

23. **Wildlife Sensitive Lighting Design Scheme:** Prior to the first occupation of any dwelling on the site, a 'Lighting Design Strategy for Biodiversity' in accordance with Guidance Note 08/23 (Institute of Lighting Professionals) shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with a timetable to be agreed in writing by the Local Planning Authority and carried out in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. No other external lighting shall be installed without the prior written permission of the Local Planning Authority.

24. **Broadband:** No dwelling hereby approved shall be occupied until superfast broadband has been installed within that respective dwelling.

25. **Access Arrangements and off-site highway works:** Prior to the occupation of the first dwelling on the site, the access arrangements and off-site highway works, as shown on Lime Transport drawing no. 21134-OS-101-01 Rev A and 21134-OS-101-03 rev A, shall be fully implemented and retained as such for the life of the development. The installed details shall include:

- a) Provision of visibility splays of 2.4m x 120m clear to ground level to the north and south of the proposed access
- b) A bellmouth access with minimum radii of 8m with a pair of dropped kerb crossing points, with tactile paving, across the access, with a 3.5m shared use pedestrian/cycleway on the southern side and a 2m wide footway on the northern side

- c) Provision of a pair of dropped kerb crossing points, with tactile paving, across Broad Street Green Road, to the north and south of the access.

26. **Bus Stop Improvements:** Prior to the occupation of the final dwelling, the developer shall implement bus stop improvements, to Essex County Council specification, details of which shall have been submitted to and approved in writing by the Local Planning Authority. The improvements shall include:

- The relocation of the existing southbound Scylla Close bus stop and provide bus cage markings, a shelter, with integral Real Time Passenger Information, raised kerbs, pole and flag on the eastern side of Broad Street Green Road, with appropriate footway and hardstanding.

27. **Extension of 30mph speed limit:** Prior to the first occupation of the development hereby approved, the developer shall seek to secure a Traffic Regulation Order (TRO) to obtain a speed limit reduction to 30mph along Broad Street Green Road to just south of the new roundabout junction for the North Heybridge Relief Road, where adoptable highway allows.

On attainment of the TRO, all necessary signage and road markings shall be provided as part of the access arrangements.

28. **Zebra Crossing details:** Within 3 months of the new 30mph speed limit being implemented, the developer shall submit details, for approval in writing by the Local Planning Authority, for a zebra crossing on Broad Street Green Road to the south of the proposed site access.

The approved crossing shall be implemented within 6 months of the obtaining of technical approval and thereafter permanently retained as agreed.

As part of the works to provide the zebra crossing, the dropped kerb crossing previously provided as part of the access arrangements set out in Condition 25 shall be removed.

29. **Boundary Treatment Plan:** Notwithstanding the details shown on the approved Boundary Treatment Plan (Reference CC-119-011A) and Detailed Soft Landscape Strategy (Proposed Planting) 14 of 15 (JSL4283_514A), prior to the commencement of the development hereby approved, details of boundary treatment to be provided between the boundaries of those dwellings (as well as the Southern boundary of the parking court and the area of open space to the front of No's 7, 9 and 11 Scraley Road) and the boundaries of existing properties 10 and 12 Broad Street Green Road, Chase End and 11 Scraley Road shall have been submitted to and approved in writing by the Local Planning Authority. Such boundary treatments shall have been installed in accordance with the approved details prior to the occupation of the corresponding dwelling (with the boundary to the parking court being provided prior to the first occupation of either plot 214 or 219, whichever is earlier).

ANNEX B: Schedule of Planning Conditions 1 – 7 (Appeal B)

1. **Time Limit:** The development hereby permitted shall be begun before the expiry of three years from the date of this permission.
2. **Conformity with Plans:** The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Site Location Plan - CC-119-001

Landscape Strategy Plan 1 of 3 - JSL4283_101 Rev B

Landscape Strategy Plan 2 of 3 - JSL4283_102 Rev B

Landscape Strategy Plan 3 of 3 - JSL4283_103 Rev B

Detailed Soft Landscape Strategy (Proposed Planting) 1 of 15 - JSL4283_501 Rev A

Detailed Soft Landscape Strategy (Proposed Planting) 2 of 15 - JSL4283_502 Rev A

Detailed Soft Landscape Strategy (Proposed Planting) 3 of 15 - JSL4283_503 Rev A

Detailed Soft Landscape Strategy (Proposed Planting) 4 of 15 - JSL4283_504 Rev A

Detailed Soft Landscape Strategy (Proposed Planting) 5 of 15 - JSL4283_505 Rev A

Detailed Soft Landscape Strategy (Proposed Planting) 6 of 15 - JSL4283_506 Rev A

Detailed Soft Landscape Strategy (Proposed Planting) 7 of 15 - JSL4283_507 Rev A

Detailed Soft Landscape Strategy (Proposed Planting) 8 of 15 - JSL4283_508 Rev A

Detailed Soft Landscape Strategy (Proposed Planting) 9 of 15 - JSL4283_509 Rev A

Detailed Soft Landscape Strategy (Proposed Planting) 10 of 15 - JSL4283_510 Rev A

Detailed Soft Landscape Strategy (Proposed Planting) 11 of 15 - JSL4283_511 Rev A

Detailed Soft Landscape Strategy (Proposed Planting) 12 of 15 - JSL4283_512 Rev A

Detailed Soft Landscape Strategy (Proposed Planting) 13 of 15 - JSL4283_513 Rev A

Detailed Soft Landscape Strategy (Proposed Planting) 14 of 15 - JSL4283_514 Rev A

Detailed Soft Landscape Strategy (Proposed Planting) 15 of 15 - JSL4283_515

Planting Schedule - JSL4283_550 Rev A

3. **Compliance with approved drainage strategy mitigation measures:** The development permitted by this planning permission shall be carried out in accordance with the approved Drainage Strategy and the following mitigation measures:
 - a) Limiting the discharge from the site to the predetermined rate (as the site is part of a wider site)
 - b) Provide attenuation storage (including locations on layout plan) for all storm events up to and including the 1:100 year storm event inclusive of climate change.

The mitigation measures shall be fully implemented prior to the first occupation of any dwelling on the site and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

4. **Construction run off /pollution prevention scheme:** No development shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and to prevent pollution has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented as approved prior to the first occupation of any dwelling on the site.

5. **Construction Environmental Management Plan for Biodiversity:** Prior to the commencement of development, a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP (Biodiversity) shall include the following:

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

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

6. **Biodiversity Enhancement Strategy:** Prior to any works above slab level, a Biodiversity Enhancement Strategy for bespoke biodiversity enhancements, prepared by a suitably qualified ecologist, shall be submitted to and approved in writing by the Local Planning Authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures
- b) Detailed designs or product descriptions to achieve stated objectives
- c) Locations of proposed enhancement measures by appropriate maps and plans (where relevant)
- d) Persons responsible for implementing the enhancement measures
- e) Details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and in accordance with an agreed timetable and shall be retained in that manner thereafter.

7. **Landscape And Ecological Management Plan:** A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the first occupation of any dwelling on the site.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed
- b) Ecological trends and constraints on site that might influence management
- c) Aims and objectives of management
- d) Appropriate management options for achieving aims and objectives
- e) Prescriptions for management actions
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5-year period)
- g) Details of the body or organisation responsible for implementation of the plan
- h) A timetable for ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details and in accordance with an agreed timetable.

APPEARANCES

FOR THE APPELLANT:

Chris Young KC Instructed by Paul Hill RPS

Supported by:

Paul Hill (BA (Hons), MA, MRTPI) – RPS – Planning

Steve Drury (BA (Hons), MA, MRTPI) – RPS - Planning/Conditions

Jamie Childs (LLB) – Howes Percival LLP - Solicitor – S106

Nick Betson (BSc (Hons) PhD MCIEEM CEnv) – RPS – Ecology

Helen Jenkins (BEng(Hons), CEng, MICE, MCIHT) – Limehouse Transport – Highways

Jonathan Reynolds (BA (Hons) DipTP, MAUD, MRTPI) – SLR – Urban Design

Jamie Roberts (MPlan MRTPI) – Tetlow King – Affordable Housing

Joe Murphy (BSc (Hons), Plan Dip, MRTPI) – Charles Church – Planning Conditions

Genny Middlemast (BSc (Hons) MSc MRTPI) – Charles Church

Matt Atton (BSc (Hons)) – Charles Church

FOR THE LOCAL PLANNING AUTHORITY:

Matt Bailey (BSc (Hons) DipTP) Senior Planning Officer – Maldon District Council

Hamish Jackson (ACIEEM BSc (Hons)) – Senior Ecologist Consultant – Place Services

INTERESTED PARTIES:

Councillor Nick Spenceley – Maldon District Councillor (Heybridge East Ward)

Anne Beale - Former District Councillor for the Ward

Edwina Hughes – Local landowner/resident

John Buchanan – Resident of Maldon; Author of 'Wildlife of Maldon'; Member of Essex Wildlife Trust, RSPB, Essex Field Club; Director of Chelmer Blackwater Nature Reserve

James Harris – Local resident

David Gozzett – Local resident

Councillor Wendy Stamp – Maldon District Councillor (Burnham-on-Crouch North Ward)

Jeffrey Long – Local resident

DOCUMENTS SUBMITTED DURING (AND AFTER*) THE HEARING

- A. Statement by Councillor Nick Spenceley (including Statement by Councillor Paula Spenceley – Maldon District Councillor - Heybridge West Ward)
- B. Statement by Edwina Hughes
- C. Statement by John Buchanan
- D. Statement by James Harris
- E. Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS) Habitats Regulations Assessment Strategy document 2018-2038
- F. Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (SPD) May 2020
- G. Desktop Support for Appeal
- H. Essex Coast Recreational Disturbance Avoidance Mitigation Strategy Supplementary Planning Document (SPD) Adoption Statement
- I. Revised Interim Advice – Natural England – 16 August 2018
- J. The Essex County Council Developers' Guide to Infrastructure Contributions (Revised 2023)
- K. Maldon District Infrastructure Delivery Plan Update (May 2014)
- L. Updated List of Draft Planning Conditions discussed at the Hearing
- M* Final List of Draft Planning Conditions following discussion at the Hearing
- N* Additional note requested by the Inspector relating to Public Transport Contribution (section 106 Agreement) dated 25 February 2025
- O* Additional note requested by the Inspector relating to Highway Contribution (section 106 Agreement) dated 25 February 2025 (received 4 March 2025)
- P* Inspector's request for further information relating to the Highway Contribution (section 106 Agreement) dated 5 March 2025
- Q* Local Planning Authority's further response relating to the Highway Contribution
- R* Appellant's Review of Transport Contributions (Highway and Passenger Transport)
- S* Certified completed counterpart section 106 Agreement dated 14 March 2025