



Appeal Decision

Site visit made on 16 December 2025

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 February 2026

Appeal Ref: APP/A1530/W/25/3370624

Land East of Port Lane: Former MAN Energy / Paxman Factory, Colchester, CO1 2NX

- 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 Port Lane Developments Limited against the decision of Colchester City Council.
 - The application Ref is 242452.
 - The development proposed is erection of 83 dwellings with public open space, landscaping and vehicular access from Port Lane.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I am also the appointed inspector for appeal APP/A1530/W/25/3372736: Erection of a three storey 66no. bedroom care home for the elderly (Use Class C2) with associated access, parking, landscaping and ancillary buildings at Land to the east of Port Lane (former Man Energy Solutions), Colchester, CO1 2FT. This is subject to a separate decision and I shall refer to it as Appeal B within this decision.
3. On 16 December 2025, the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework). Whilst broad changes to the structure of the Framework are proposed as part of this consultation, these proposals could be subject to further change and can only be given very limited weight at this stage. It has therefore not been necessary to consult the parties on the changes, and in reaching my decision, I have had regard to the Framework published in December 2024.

Main Issue

4. The main issue in this appeal is whether the proposed development achieves an appropriate standard of design and place making.

Reasons

5. The appeal site forms part of the housing allocation at Port Lane, Colchester under Policy SG2 and Policy EC3 of the Development Plan, which comprises the Colchester Borough Local Plan 2013–2033: North Essex Shared Strategic Section 1 Plan (2021) and the Colchester Borough Local Plan 2017–2033 Section 2 (2022) (DP).

Piecemeal Development

6. Policy EC3 of the DP supports development within Land at Port Lane where it provides up to 130 dwellings of a mix and type compatible with surrounding development, includes access via Port Lane, and requires contamination mitigation measures and contributions towards flood risk solutions. The policy does not stipulate the need for a comprehensive masterplan. However, given the size and scale of the allocation, it may not have been envisaged that the site would be subdivided into three separate parcels, each coming forward independently.
7. The Port Lane allocation is currently subject to three separate proposals for redevelopment, two of which are before me at appeal, with the third recently having been refused planning permission by the Council. The site also benefits from an extant outline planning permission for up to 130 dwellings on the part of the site subject to both Appeal A and B.
8. It has been put to me that the site is being developed in a piecemeal manner, lacking a comprehensive masterplan, and that this is evidenced by the two appeal schemes being served by separate vehicular accesses and that this approach undermines the place-shaping principles of Policy SP7, which seek well-connected, cohesive development, and the design standards of Policy DM15, which require layouts that integrate positively with their context.
9. However, Policy EC3 does not require a masterplan, and the absence of one cannot, in itself, amount to a policy conflict. The evidence before me does not demonstrate that considering the schemes individually would prejudice the development of the allocation as a whole. Both proposals utilise existing access points onto Port Lane and serve different development types. On this basis, I am satisfied that the development, in principle, does not result in a conflict with policy EC3.

Layout and Design

10. Policy SP7 of the DP sets out place-shaping principles, requiring development to respond positively to local character and context, deliver well-connected and legible streets and spaces, and create well-defined public and private realms that have streets and spaces that are overlooked and active. Similarly, Policy DM15 requires proposals to achieve a high standard of design, respecting and integrating with their surroundings in terms of layout, scale, form, and detailing, and establishing a visually attractive sense of place through good architecture and landscaping.
11. The proposed layout adopts an inward-facing arrangement, with dwellings orientated towards internal streets and parking areas rather than external edges. This is particularly evident when viewed from Peache Road, where the development would present rear gardens and boundary treatments to the street, continuing a hard, impermeable edge between the two schemes. This approach limits opportunities for active frontage and visual engagement with the wider public realm.

12. Similarly, the sensitive edge adjoining the public right of way (PROW) would be treated with fencing and planting rather than active frontages, resulting in limited natural surveillance and a weak relationship with this established route. These factors undermine the creation of well-connected, inclusive spaces and conflict with SP7's emphasis on permeability and DM15's requirement for legibility and integration. It also fails to take account the principles set out within the National Design Guide, which requires development to have regard to its context, with well designed development integrated into its wider surroundings, taking into account both views inwards and outwards.
13. While the scheme includes an area of public open space and provides links through the site, described as a heritage trail, which are intended to provide connectivity and biodiversity benefits, these spaces are located on the edges of the site and don't integrate well with the existing neighbouring development. The layout also encourages vehicular dominance, with significant areas given over to access roads and parking, reducing the sense of pedestrian priority. Taken together, these elements fail to accord with policies SP7 and DM15 of the DP which seek to achieve well-defined, attractive, and inclusive public spaces.
14. The proposed built form comprises terraces and semi-detached units of two and two-and-a-half storeys. The design seeks to reflect local vernacular through brickwork, tiled roofs, and subtle detailing, and the surrounding area is characterised by a varied mix of styles and ages. Building heights and forms broadly respect the prevailing scale, and variations in elevation and materiality introduce visual interest. In this regard, the overall architectural approach would integrate reasonably well with the locality.
15. In conclusion, although the proposal demonstrates positive aspects, such as the use of contextual materials, provision of open space, and biodiversity enhancements, it does not fully achieve the high standard of design and placemaking sought by Policies SP7 and DM15. The identified weaknesses in layout, particularly the treatment of the PROW and the relationship with Peache Road, result in a scheme that only partially responds to its context and falls short of establishing a cohesive sense of place.

Other Matters

16. The appellant has provided a legal agreement under section 106 of the Town and Country Planning Act 1990, which includes a number of obligations which would come into effect if planning permission were to be granted. I have considered the obligations in light of the Framework, Planning Practice Guidance and the Community Infrastructure Levy Regulations (the CIL Regulations). These state that a planning obligation must be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
17. Local Plan Policy SP6 indicates that all development must be supported by the provision of the infrastructure that is identified to serve the needs arising from the development. It sets out that it will work with developers to facilitate the delivery of a wide range of social infrastructure. Contributions will be sought to mitigate the adverse effects that new development may have on the local community and infrastructure.

18. Policy SG7 states development will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development. Small sites can have a cumulative effect on infrastructure and proportional contributions will be sought from all developments where this is demonstrated to be the case.
19. The legal agreement facilitates a number of financial contributions which are evidenced within the Council's delegated report which sets out how the contributions would be used. It also secures the provision of affordable housing and open space and amenity areas.
20. On this basis, I consider the agreement accords with the criteria of Regulation 122 of the CIL and with paragraph 57 of the Framework. I can therefore reasonably take it into account.

Essex Coast Recreational Avoidance Mitigation Strategy

21. The appeal scheme proposes dwellings on a site that lies within the Zone of Influence for the Blackwater Estuary SPA and Ramsar Site; Colne Estuary SPA RAMSAR site; Abberton Reservoir Estuary SPA and Ramsar site, Stour and Orwell Estuaries SPA and Ramsar site) and Essex Estuaries Special Area of Conservation (SAC).
22. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the aforementioned Habitat sites. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.
23. Since the development is for eighty-three dwellings, the number of additional recreational visitors would be modest and the likely effects on the Habitat sites from the proposed development alone may not be significant. However, in combination with other developments it is likely that the proposal would have significant effects on the designated sites.
24. Given my findings, the Regulations place a duty on the competent authority to undertake an appropriate assessment of the implications of the appeal scheme in view of the site's conservation objectives.
25. The site is within the zone of influence where new residential development is likely to result in recreational pressure, which would, both alone and in combination with other development within the zone of influence, have a likely significant effect on the interest features of the aforementioned sites. Therefore, I consider that the development would have an adverse effect on the integrity of the site, but regard can be had to whether these adverse effects can be mitigated.
26. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling.

27. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the Habitat sites.
28. The appellants have submitted a legal obligation containing provision for the contribution to fund the Essex Coast RAMS. Given the evidence before me I am satisfied that the mitigation measures have been secured and would be used for their intended purpose.
29. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contributions toward the mitigation scheme would count as mitigation toward maintaining the integrity of the sites.

Planning Balance

30. The parties disagree as to whether the Council can demonstrate a five year supply of housing, and therefore whether paragraph 11d of the Framework applies. The Council's evidence suggests that they can demonstrate a marginal supply of 5.01 years.
31. If paragraph 11(d) of the Framework were to be engaged, the decision would turn on whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. In considering this, particular regard would be given to key objectives such as directing development to sustainable locations, making effective use of land, securing well-designed places, and delivering affordable homes, whether individually or in combination.
32. Footnote 9 explains that the policies referred to, which are relevant to this appeal are paragraphs 66, 84, 110, 115, 129, 135 and 139. The proposal accords with paragraph 66 as the scheme provides affordable housing and paragraphs 84, 110 and 115 as the proposal is not isolated and located in a sustainable location with access to the site being safe and suitable.
33. However, the proposal would not achieve the aims of paragraphs 129, 135 and 139 which together support development that makes efficient use of land taking into account the importance of securing well designed, attractive and healthy places and which function well as a result of good architecture and layout and accords with the National Design Guide. The proposal would fail to secure a well designed development and does not establish a strong sense of place through its arrangement of streets and spaces and would not add to the overall quality of the area. It also conflicts with the aspirations of the National Design Guide, in particular with regard to context and built form. I have attributed considerable weight to the conflicts identified with the relevant Framework policies and the resulting failure to embrace the principles of placemaking.

34. I accept that the site is well located in terms of its proximity to services and is of a scale appropriate to the size of the existing settlement and as such lies within a sustainable location. Furthermore, the site is allocated within the DP for residential development. There is no evidence that highway safety would be compromised, or that local infrastructure would be unable to meet the needs of the development.
35. The development would also give rise to some economic benefits during the construction phase and provide support to local services. I have attributed significant weight to the delivery of housing, including affordable provision, in this instance, having regard to its conflict with the policies of the framework.
36. However, the identified adverse impacts of the development, the conflict with the development plan and the failure to embrace the principles of placemaking to which I have afforded considerable weight would significantly and demonstrably outweigh the benefits outlined above.
37. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

38. For the reasons given above the appeal should be dismissed.

G Pannell

INSPECTOR