Planning Inspectorate

Appeal Decision

Inquiry held on 21-23 & 28 July 2026

Site visits made on 20 & 21 July 2026

by Nick Fagan BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2026

Appeal Ref: 6005664
Land West of Spratts Farm, Queenborough Road, Southminster, Essex CM0 7AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Gladman Developments Ltd and DJ Fisher Farms and L&A Barker against the decision of Maldon District Council.
- The application Ref is 25/00206/OUTM.
- The development proposed is: Outline planning application for the demolition of number 46 Queenborough Road and the erection of up to 110 dwellings (including affordable housing), with public open space, structural planting, landscaping, sustainable drainage system (SuDS) and vehicular access point. All matters to be reserved, except for means of access.

Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of number 46 Queenborough Road and the erection of up to 110 dwellings (including affordable housing), with public open space, structural planting, landscaping, sustainable drainage system (SuDS) and vehicular access point, all matters to be reserved, except for means of access at land West of Spratts Farm, Southminster, Essex CM0 7AD subject to the conditions in the attached Schedule at the end of this decision.

Preliminary Matters

2. I conducted an unaccompanied site visit on the day before the Inquiry opened. Following the Landscape Round Table Discussion on Day 1 of the Inquiry I went back to the site and the adjacent site to the west (the Homefield site – see below) to check the relationship between the two sites. This was again an unaccompanied visit, because it was agreed between all the parties attending the Inquiry that it was unnecessary for me to conduct an accompanied site visit. I was able to see everything I needed to at these two visits, including viewing the site from all relevant viewpoints.

3. Three weeks from the last sitting day of the Inquiry was given as the date by which a signed and dated tripartite S106 agreement (the S106) – between the owners/appellants, the District Council and the County Council – was to be submitted. This was actually dated and submitted on 13 August. I refer to the obligations in the S106 below as necessary.

4. Just before this decision was issued, on 17 August, the Government issued the new revised version of the National Planning Policy Framework (NPPF). I do not consider that there is any need to revert to the main parties regarding this because

the new policies for decision making in it do not substantially alter the national policies in the previous NPPF version, certainly not that would benefit the Council's or any third party's cases. Obviously, any reference to the NPPF refers to the policies within this new version.

Main Issues

5. The three main issues are:

- Whether the proposed development would result in unacceptable landscape and visual impacts or harm to the character and appearance of the area.
- Whether it would be likely to result in unacceptable noise impacts to the occupiers of No 48 Queenborough Road.
- The planning balance of benefits against any harms, when assessed against Policy S5 (Principle of development outside settlements) of the new revised NPPF.

Reasons

Effect on Landscape & Visual Matters and on Character & Appearance

6. The middle of the appeal site is within a comfortable walking distance of Southminster town centre with its shops, cafes and pubs, GP Surgery, primary school, bus stops and railway station to the south. It comprises part of an arable field 5.22Ha in area on the northern edge of the town, adjoining but outside the defined settlement boundary. The illustrative Development Framework Plan (the subject of Condition 5 in the Schedule below) shows 3.77Ha of the site would be developed for housing, whilst the rest (the northernmost part of the site and that part of the blue land to the north comprising the linear green space and walkway next to the brook) would comprise landscaped public open space (POS).

7. There is residential development to the south of the site at Coombe Road and Spells Close; to the east of the site is a builders' yard and to the south is residential development off Queenborough Road (the builders' yard is accessed via a track located along the eastern boundary of the site); to the west is an arable field and to the north is farmland. A Public Right of Way (PROW) (FP1-259) runs along the site's southern and western boundaries. Overhead power lines cross the site.

8. The land to the north (within the blue land of the Location Plan also under the appellant's control) continues to fall towards the brook before rising again towards Foxhall Road. The eastern edge of this blue land abuts Sheepcotes Lane, also a PROW (FP3-259), to the east of which was the site of another proposed housing development for 220 dwellings, dismissed on appeal last year[1] .

9. The Landscape Statement of Common Ground[2] (the LSoCG) sets out that the site is not a valued landscape for the purposes of former NPPF paragraph 187 a), although that term has not been used in the new version of the NPPF. The site does not lie within a protected landscape governed by new Policy N2. It is agreed

[1] CD8.1 – APP/X1545/W/24/3351697 - Land north of Homefield and west of Tillingham Road, Southminster CM0 7DT, dismissed 26 March 2025
[2] CD12.4

that the methodology of the appellant's Landscape and Visual Appraisal (LVA)[3] submitted with the application is acceptable in that it complies with GLVIA3[4]. It is undisputed that the Viewpoints used in the LVA provide a fair and representative range for appraising any visual impact, and that the overall pleasantness of views enjoyed by properties next to the appeal site would inevitably change, and that residents of such properties may be highly sensitive to such change, albeit there is no right to a view.

10. The main parties agree that there will be an adverse effect in landscape character terms. The appellant maintains that this would not be significant, as opposed to the Council that argues it would be.

11. However, the differences between them are relatively limited, as set out in the comparison tables contained in the appendices of the LSoCG. In relation to landscape effects, the sole disagreement between them is in relation to the magnitude of effect on the site and its immediate context and overall effect at Year 15 following completion of the development; the appellant considers the effect would be *moderate-minor adverse* whereas the Council considers it would be *moderate adverse*. There would be *negligible* effects on the wider Landscape Character Areas set out in both the Essex Landscape Character Assessment (2003) and the Maldon Landscape Character Assessment (2006), and consequently on the National Character Area.

12. The Council argues that the POS and structural planting and landscaping within it would fail to mitigate the overall effect of the new suburban housing estate on the rolling agricultural landscape on the northern edge of the town, which would be very apparent even after such planting had matured at Year 15.

13. I agree that the new housing would still be apparent but the structural planting and landscaping in the northern section of the site would undoubtedly help mitigate the effect of the new suburban housing development on the site's immediate context. I disagree with the Council's claim that this development would, like that in the recent Homefield appeal, *'be a conspicuous intrusion of settlement into open, undulating arable farmland'*[5] because the much larger development proposed there (double the number of dwellings) would have extended way beyond the northernmost dwelling on Tillingham Road and Sheepcotes Lane. Whereas in this scheme the built development would not extend beyond that or beyond the builder's yard on the site's eastern boundary.

14. Consequently, the northerly extension of the town proposed by this scheme would therefore be sensitive and proportionate, whereas the Homefield scheme clearly wasn't, for the reasons given by the Inspector in that decision.

15. For these reasons I conclude, given the landscape is here undoubtedly influenced by existing built development on the settlement edge, that there would only be a ***moderate-minor adverse*** landscape effect at Year 15 post-completion of the development.

16. In relation to visual effects, there are two areas of disagreement between the main parties. The Council considers that users of both PROWS FP1 and FP3 would still

[3] CD1.06
[4] Guidelines for Landscape and Visual Impact Assessment, 3rd edition, 2013, Landscape Institute & Institute of Environmental Management and Assessment
[5] Ibid CD8.1, para 20

be subject to a *moderate adverse* effect at Year 15 because the effectiveness of the northern planting and landscaping in the POS would be moderated by its siting at a lower level than the housing above it to the south.

17. The planting and landscaping would be on a lower level than the housing due to the northward slope of the land and would not therefore screen it entirely in views from these footpaths to the north and west. But it would not be significantly lower than the houses because the slope is not steep, it would still have some screening effect and would be an improvement on the lack of any such landscaped screen to the current housing at Hillside Road or Coombe Road. The northwestern corner of proposed housing would also be inset away from FP1 to accommodate the SUDS feature, and the view from FP3 would be an angled view some distance away from the new dwellings, with the proposed POS and adjacent woodland to Sheepcotes Lane providing at least a partial screening effect. For these reasons I consider, at worst, that there would only be a ***moderate-minor adverse*** effect on the users of footpaths FP1 and FP3.

18. There would also be – undisputed by the appellant – *minor adverse* effects at Year 15 on the views of residents at Queenborough Road and Hillside Road and *moderate adverse* effects on about 20 sets of residents in Coombe Road and Spells Close, given that their rear windows would look onto the new development rather than onto an open field.

19. In summary, in landscape character terms, at worst there would be a ***moderate adverse*** visual effect (in terms of the visual effect on residents on approximately 20 dwellings in Coombe Road and Spells Close), but generally only a ***moderate-minor adverse*** visual effect (on the users of FP-1 and FP-3) and a ***moderate-minor adverse*** landscape effect solely in relation to the site and its immediate context at Year 15 post-completion of the development. Such effects, although adverse, would not comprise significant or unacceptable landscape harm.

20. Regarding assessing whether there would be any adverse harm to the character and appearance of the area, I concern myself here only with the Council's argument that the timber acoustic fence on the boundary with No 48 Queenborough Road would be alien to the area's character and appearance.

21. At present there is a 1.8m high close boarded timber fence on the boundary between Nos 46 and 48 Queenborough Road, although I accept that it drops to approximately 1.2-1.4m in the front gardens of these properties. Condition 26 in the Schedule below reserves the location and scale (height) of the acoustic (timber) fence as well as the exact route of the access road into the proposed development, the agreed position being that the fence would be sited as close as possible to the access road, in order to maximise its acoustic shielding effect on noise from car engines on that road to the occupiers of No 48.

22. I assess the noise issue below. But, given that I am allowing the appeal and granting permission for the development, Condition 26, which reserves the siting and height of the acoustic fence, is agreed between the main parties. The height of the fence including near to Queenborough Road would be under the control of the Council. It would have to balance the merits of any noise screening effect on No 48 against any perceived harm to the area's character and appearance. Though given the change to this corner of Queenborough Road that would result from the demolition of No 46 and the access road junction, my view is that a 1.8m fence

extending as far south as Queenborough Road itself would not result in any significant harm to the area's character or appearance.

23. The development plan is the Maldon District Local Development Plan 2014-2029, adopted in July 2017 (the MLP). Policy S1 (Sustainable Development) sub-para 12) requires development proposals to maintain the rural character of the District without compromising the identity of its individual settlements. For the above reasons the proposed development would do so. Policy S8 (Settlement Boundaries and the Countryside) requires the countryside to be protected including for its intrinsic character and beauty. Clearly, building a housing development on part of the countryside would fail to protect it, and so there is conflict with this policy, although I address the weight that should be given to it in the Planning Balance below.

24. Policy D1 (Design Quality and Built Environment) requires all development to respect and enhance local character and context, which I am satisfied the proposed development would be capable of doing at reserved matters stage for the above reasons. Likewise, Policy H4 (Effective Use of Land) requires development to be design-led and optimise the use of land considering the location and setting of the site and existing character and density, which I am confident the scheme would be able to do. I am satisfied that, in terms of landscape character and character/appearance terms, the proposal would comprise sustainable development in accordance with the NPPF.

Noise to No 48 Queenborough Road

25. In assessing the likely noise effects of the proposed development on the living conditions of No 48's residential occupiers, in particular the likely noise from vehicles on the access road to the site off the northwestern corner of Queenborough Road, I have taken into account all the relevant policy and guidance referenced in evidence. This includes the Wardell Armstrong Noise Screening Report (CD1.15), all the documents in CD11 (the Noise folder), and NPPF paragraph 187 e), which states that planning policies and decisions should prevent new development from contributing to unacceptable levels of pollution, including noise pollution.

26. New NPPF Policy P3 is also relevant, which states that development proposals should, under sub-paragraph 2 a), provide healthy living conditions for occupiers and users avoiding exposure to pollution including from noise which could have an unacceptable adverse effect on health and the quality of life. Also relevant is the Explanatory Note to the Noise Policy Statement for England, 2010 (NPSE, CD11.2). I have of course also taken into account the comments of Mr Aggarwal and his family members who live at No 48.

27. As the NPSE states (in its paragraph 2.9), there are currently no national or European wide noise limits which must be met. The sole relevant question here is whether traffic noise of vehicles entering and leaving the new development would be likely to cause sleep disturbance at night to No 48's occupiers (between the hours of 2300 and 0700), because such disturbance could give rise to adverse health effects.

28. The NPSE sets out (in para 2.20) the relevant concepts, including those applied by the World Health Organisation, to noise levels: NOEL – No Observed Effect Level, below which level there is no detectable effect on health or quality of life; LOAEL –

Lowest Observed Effect Level, above which level adverse effects can be detected; and SOAEL – Significant Observed Adverse Effect Level, above which level significant adverse effects occur. As para 2.21 states: *'It is not possible to have a single objective noise-based measure that defines SOAEL that is applicable to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times.*' The aim is to avoid noise levels above SOAELs and to mitigate and minimise noise levels above LOAELs. 'Level' in terms of these concepts refers not just to decibel (dB) level but includes factors such as the number of times the noise impact occurs, the duration of the impact, and the time of day the impact occurs.

29. These noise effect levels are also addressed and explained in Planning Practice Guidance (PPG) - Noise (CD11.1), specifically in the Noise Exposure Hierarchy Table. An adverse effect is one which causes a change in the noise receptor's behaviour or response, for example the need to close a window. A significant adverse effect would cause a material change in behaviour, such as keeping windows closed for most or all of the time, for instance to prevent sleep disturbance. Noise exposure above the SOAEL would indicate that a development generating such noise should be refused permission or amended to avoid such an effect.

30. The Wardell Armstrong (WA) Report did not assess the likely noise effect of the proposed access road on the rear windows of No 48, only on the front and side windows, but the main parties accept that this is necessary. As the Council makes clear (in its Closing Submissions, paragraph 19), the dispute between the main parties is a narrow but significant one: whether the noise generated by vehicles on the access road at night (i) should be assessed by reference to maximum (rather than average) noise levels, and (ii) if so, the level above which a significant adverse effect is likely to result. It is agreed between them that there is no concern regarding noise during the daytime to habitable rooms nor to the 8-hour average nighttime noise levels in No 48 with windows partially open, nor to its garden area, nor indeed at any time in relation to No 48's western, southern and eastern facades.

31. Neither BS8233 2014 (the Noise BS, CD11.3) nor the Design Manual for Roads and Bridges (the DMRB, CD11.6) set out that intermittent maximum noise events should be used to assess noise on residential occupiers. But, in principle, I don't see why they should not be used because, clearly, such an individual noise event (for example the revving of a car or motorbike) could clearly wake up a sleeping person; infrequent but loud noises against a relatively quiet background environment, such as nighttime traffic in suburban residential areas, could have such an effect. Note 4 to Table 4 of the Noise BS mentions that regular noise events such as scheduled aircraft or passing trains can cause sleep disturbance (my underlining). So could a one-off incident of a revving car, but it is reasonable to assess how likely and how often such an incident would take place.

32. In the context of the proposed access road, it would be designed to cater for vehicle speeds of 20mph; it is likely to have a sharp if not ninety degree bend in it before a vehicle heading out of the site would need to give way at the junction with Queenborough Road, which would ensure that vehicle speeds and therefore the noise generated by such vehicles would be less than those passing on Queenborough Road, where the speed limit is 30mph and surveyed speeds around 29mph; at least some of the vehicles (an increasing number as time goes

by) are likely to be electric vehicles, which are much quieter than combustion engine vehicles; neighbours using it at night (2300 to 0700) would likely incline to be neighbourly and therefore desist from revving their engines etc; and the time that a vehicle would take to negotiate it would be less than the 10-30 second time that a plane or train would take (the examples given in the Noise BS and in the World Health Organisation Guidelines for Community Noise, 1999 or WHO Guidelines – CD11.4, page 28).

33. Therefore, in the circumstances of the proposed development, where in any case it is agreed that only 32 vehicle movements are predicted to access or leave the site between these nighttime hours, it is not unreasonable to use average rather than maximum predicted noise levels. As agreed, there is no concern by the Council regarding the predicted average nighttime noise levels to No 48's rear windows.

34. However, even assuming that maximum rather than average nighttime noise levels should be used, the question is whether the predicted maximum levels would be unacceptable – whether they would give rise to a significant adverse effect resulting in No 48's occupiers having to completely close their rear windows for most of the time, which could result in overheating, especially in heatwaves like those we have recently had.

35. The WA Report survey from monitoring point ML1 (within the site near Queenborough Road in the vicinity of the access road's likely location) revealed maximum external decibel (dB) levels on a range between 51-68dB. The Cass Allen model used by Mr Bryant for the Council showed a close correlation to this (within 1-2dB), such that Table 5 of Mr Bryant's Proof suggested a maximum of 70dB.

36. The Council argue that, assuming a partially open bedroom window will reduce noise by 15dB, giving an internal 55dB within the bedrooms on No 48's north elevation, this would mean an exceedance of the 45dB LAmax noise level, which the WHO Guidelines and the Noise BS state should not be exceeded more than 10-15 times a night for a good night's sleep.

37. However, even if all 32 vehicles movements at night resulted in 70dB noise levels – which is very unlikely for all the above reasons – I am unclear why this would constitute unacceptable noise to No 48's occupiers. The appellant cites the Acoustics Ventilation and Overheating Residential Design Guide, 2020 (AVOG, CD11.5) and specifically Table 3-3 (on pages 23-24), on the basis that this is the most up-to-date guidance on noise in relation to dwellings, including in relation to overheating, which is a possible concern here. This is the guidance documents produce by the Institute of Acoustics, of which both noise experts are members.

38. The Council argues that the AVOG guidance should be discounted because it concerns new dwellings rather than existing ones. I can see no sense in that; I do not accept that one-off noise events would be more tolerable to the occupiers of a newly built dwelling if it woke them up from sleeping compared to the occupiers of an existing dwelling; sleep disturbance to both types of dwelling occupiers could give rise to adverse health effects if this happened every night. Consequently, I accept the AVOG Guidance in Table 3-3 as relevant, especially as it is relatively recent, compared to that in the 1999 WHO Guidelines.

39. Table 3-3 adopts the same outcome-focussed criteria as in the PPG's Noise Exposure Hierarchy Table. Note 4 to this Table indicates that the LAmax indicator

associated with the upper category is intended for road traffic. Individual noise events that exceed 65dB LAFmax is indicated as having to keep windows closed most of the time.

40. But No 48's rear windows are unlikely currently to be open all year round anyway, especially in the winter, due to colder temperatures. Even if all 32 nighttime vehicle movements resulted in 70dB external noise levels, partially open windows would reduce the internal noise levels to 55dB, which is the level only above which Part O of the Building Regulations considers that bedroom windows would have to be closed (if that internal noise level occurred more than 10 times a night). There may be occasions in summer heatwaves where occupiers may want to fully open bedroom windows to the point where they have no significant sound reduction effect internally at all, but such nights are likely to be relatively few in terms of the whole year, even this hot year and even accepting climate change predictions. Realistically the extent of how fully bedroom windows will be open at night at No 48 (or in any dwelling) is based on nighttime temperatures, such that on cold winter nights they may not be open at all stretching through the range of partially open (common in spring/autumn) to potentially fully open in summer heatwaves.

41. To conclude, it is unlikely that residents at No 48 would want to keep their rear windows fully open all year round. It may be that during summer heatwaves, when they would prefer to keep them fully open at night, that vehicles generating 65dB+ noise levels may generate noise nuisance. But it is very unlikely that all 32 average nightly vehicle movements would do so. It is far more likely that partially open rear windows in No 48's rear elevation, likely to occur for much of the year, would suitably reduce internal noise levels within the rear bedrooms sufficient not to cause significant sleep disturbance from the proportion of vehicles exceeding 70dB noise levels. It is therefore unlikely there would be a SOAEL, a significant observed adverse effect level that would cause a material change (my emphasis) in occupiers' behaviour, in this case trigger the need to fully close all rear windows for most of the time.

42. I conclude this having regard to the indicative (dotted red line of) the proposed access road in drawing 1727/10 Rev B. As Mr Healey for the appellant sets out in 6.6 of his Proof, there are alternative options for the access road and acoustic fence layout, which would take it further away from No 48's boundary, having a correspondingly beneficial effect in terms of minimising any noise to its window and door openings. Therefore, even if my above conclusion is incorrect, Condition 26 in the Schedule below reserves the final siting and layout of the access road and the 1.8m high acoustic fence (to the Council's discretion) and, importantly, specifies that 60dB LAFmax is not exceeded external to any bedroom window, assessed at a distance 1m perpendicular to the centre of the window between 2300-0700 (more than 10-15 times per night). I have no doubt that this Condition would successfully ensure that there would be no unacceptable noise impacts to the occupiers of No 48 Queenborough Road.

43. Consequently, MLP Policy D1 4) which requires the amenity of areas surrounding development to be protected from harm including noise and Policy D2 6) which requires all forms of pollution including noise to be minimised would be complied with, as would new NPPF Policy P3.

The Planning Balance

44. The proposed development would comply with new NPPF Policy S5 because the Council cannot demonstrate a five-year supply of deliverable housing sites (5YHLS). It says it has a 4.04 YHLS, whereas the appellant argues there is only a 3.6 YHLS. Regardless of this, such a marginal difference being unimportant, this lack of a 5YHLS means that NPPF Policy S5 is engaged.

45. Sub-paragraph 1 h) of Policy S5 makes clear that residential development physically well-related to a settlement (which this is) of a scale which could be satisfactorily accommodated by necessary infrastructure (which this scheme would be through S106 obligations and conditions) would be acceptable. Sub-paragraph 1 j) states that development which would address an evidenced unmet housing need (as in this case) where there is no 5YHLS and that is well-related to an existing settlement with necessary infrastructure is acceptable in principle. Sub-paragraph 2 of this Policy sets out the circumstances in which the benefits of approving development in line with the criteria in sub-paragraph 1 are restricted to national decision-making policies which state such proposals should be refused only in specific circumstances, none of which apply here.

46. The spatial strategy policies relied on by the Council in its refusal reasons are out-of-date. That is because the Council's spatial strategy in MLP seeks to deliver only 4,650 dwellings during its plan period (310 per year), way below the current need identified by the standard method set out in PPG, which is uncontested to be 586 dwellings per annum, almost double the previous requirement.

47. I have identified above the at-worst moderate landscape harm to the site and its immediate context, which would not be significant or unacceptable. The Council's argument that such moderate harm is nonetheless significant is illogical and not credible. The development would infringe MLP Policy S8 because building a suburban housing development on part of an open field would not 'protect' the countryside. However, NPPF Policy N2 (as per previous paragraph 187 b) of the 2024 NPPF) does not 'protect' the countryside for its landscape or intrinsic character and beauty, which Policy S8 specifically endeavours to do; it merely 'considers' the environmental qualities of land proposed for development including the natural beauty of the countryside, which is not the same as protecting it. This means that even if this level of harm was considered significant and unacceptable, I would attribute only limited weight to the conflict with MLP Policy S8.

48. Added to that is the harm to the Council's spatial strategy in its development plan – to MLP Policies S1, S2 and S8 – because the appeal site lies outside Southminster's settlement boundary. But I give only limited weight to such harm because, if these policies were to be applied with the vigour of full weight, the Council would clearly be unable to meet its current housing needs, contrary to the NPPF, specifically to Policy HO1, which prescribes the use of the standard method (set out in Annex D) to establish housing need in the area.

49. I also add to these harms the agreed heritage harm: the harm to the setting, and thus significance, of the Grade II listed Spratt's Farmhouse (now known as Mead House, 52 Queenborough Road) by virtue of the agreed 'less than substantial harm'[6] – at the lowermost end of the spectrum – in terms of the change to its

[6] The term used in paragraph 215 of the previous (December 2024) version of the NPPF, upon which the parties assessed such harm.

northern agricultural setting. I give such harm considerable importance and weight, although the Council acknowledges that the public benefits of the proposal, notably the delivery of market and 30% affordable housing, outweigh such harm. As such, the proposal would comply with new NPPF Policy HE6, which specifically indicates that is the way in which any harm should be assessed to designated heritage assets.

50. In summary, the harms from the proposed development would be at-worst moderate landscape harms and very limited harm to the significance of the Grade II listed Spratt's Farmhouse acknowledged by the Council to be outweighed by its public benefits. I have concluded that there would be no unacceptable noise impacts to the occupiers of No 48 Queenborough Road. Even if I was wrong in this, the Council only attribute such harm moderate weight[7] because only the occupiers of one dwelling would be affected.

51. The (public) benefits of the scheme are numerous. I attribute **substantial weight** to the scheme's delivery of both market and affordable housing. The Council argues that only *significant weight* should be given to both because, first, the shortfall of housing has improved since the Homefield decision (when it was only 2.7 YHLS) and is likely to have improved beyond the current 4.04 YHLS as a result of the recent appeal decision at land west of the cemetery at London Road, Maldon, which allowed 275 new dwellings[8]. Secondly, in relation to affordable housing (AH), it argues it is the percentage and quantum that is important; 100% AH or a greater quantity than this scheme would deliver, such as the 110 AHs that will be delivered from the above appeal scheme, should be given a higher weighting.

52. I don't accept such arguments because it is a national requirement for Local Planning Authorities to have a 5YHLS, which Maldon doesn't have and it has a shortfall of AH units that it should have delivered to date under the MLP. Therefore, on both counts, it is reasonable to attribute substantial weight to the delivery of both market and AH.

53. I agree with the Council that **moderate weight** (rather than significant weight) should be attached to the scheme's economic benefits (construction employment and spend and the expenditure of economically active future residents) on the basis that other schemes, such as commercial schemes, would generate more such benefits.

54. I also agree that only **limited weight** should be attached to the POS and green infrastructure (GI) proposed because this is a policy requirement and because it is located at the northern extent of the site and therefore less likely to be used by other members of the public, or, alternately, that the footpaths including that adjacent to the brook is already used by locals for dog walking etc and so the proposed POS/GI would not add anything of consequence for them. In terms of biodiversity net gain (BNG), again, this would only warrant **limited weight** because a minimum of 10% BNG is a statutory requirement and the scheme would deliver very little above that requirement.

[7] The scale of weighting both for planning harms and benefits is agreed between the main parties (in descending order): substantial, significant, moderate, limited, neutral. I adopt this same scale.
[8] CD9.12 – 6004910, allowed 6 July 2026

55. There are other arguable benefits of the proposal. These are set out in the S106 and in Conditions 12 and 13 below, which require pedestrian dropped kerbs and tactile paving to be provided prior to first occupation at various local road junctions.

56. The S106 has obligations requiring prior to commencement or occupation or other appropriate trigger: 30% AH provision (at a mix of 75% rented and 25% intermediate housing), management and maintenance of the POS/GI and permissive footpath adjacent to the brook, the payment of appropriate financial contributions in respect of the Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (RAMS), healthcare, early years, primary and secondary education, secondary school transport, libraries, PROW contribution towards the cost of diverting FP1, a £310,000 Sustainable Transport Contribution towards improving bus links between the site and local area including Maldon and Burnham-On-Crouch, as well as the payment of both Councils' monitoring and legal costs.

57. I accept that some of these benefits, especially the improved bus links and the junction improvements, will benefits existing local residents as well as proposed residents of the scheme. But these benefits have only been provided because they are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind, as required by regulation 122(2) of the *Community Infrastructure Levy Regulations 2010*. Consequently, I attribute only **limited weight** to the improved bus links and junction improvements and **neutral weight** to the other S106 obligations/ contributions.

58. New NPPF Policy S3 sets out the presumption in favour of sustainable development (previously set out in paragraph 11 of the 2024 NPPF). This states in 1 c) *'Outside settlements, Policy S5 should be applied'*. I have set out above how the proposed development would comply with new Policy S5. Although it would not comply with all relevant policies in the development plan, I have reduced the weight of Policies S1, S2 and S8, because they are out-of-date. The other relevant policies in the plan – D1, D2 and H4 – would be complied with. For these reasons alone the proposal would be sustainable development, which should be granted planning permission.

59. Further to this, the scheme's harms, even if they were to be at the level argued by the Council, would come nowhere near to significantly and demonstrably outweighing the above benefits. Whilst this was the old test in NPPF 2024 paragraph 11, the fact that it is passed only adds to the reasons for allowing this appeal.

Other Matters

60. I acknowledge the 342 objection letters/comments at the application stage from local people and the 8 objection letters/comments at the appeal stage from locals, including from Sir John Whttingdale, the local MP. In particular I acknowledge all the correspondence from Mr Aggarwal and his family members at No 48 Queenborough Road.

61. The Aggarwal family objects to the development for a number of reasons, including noise to their property, which I have addressed in detail in main reason two above. They also object to the access to the new development being proposed

where Queenborough Road is narrow and floods and consider that cars would have insufficient visibility accessing and exiting the site.

62. The County Council as the Local Highway Authority does not object to the access road on either of these grounds. The flooding issue in this part of Queenborough Road – set out in Mr Aggarwal's submitted photographic evidence – appears to be because of blocked drains on the road. That is a matter that Mr Aggarwal is apparently pursuing with the Council's highway maintenance team and is clearly its responsibility.

63. All the other matters raised in the above multiple objections, including that there is insufficient local infrastructure to service the new residential occupiers of the scheme, I have addressed above. I am satisfied that there are no valid planning harms to warrant refusal of this scheme, which would be sustainable development.

Conditions

64. The conditions in the Schedule below are agreed between the main parties. I agree that they all meet the tests for conditions in the NPPF and PPG and that they are all necessary for the individual reasons appended to each condition in the Schedule. Also attached simply by way of information, at the end of the Schedule, is an Informative setting out the need for compliance with the statutory biodiversity net gain condition as required by paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990.

Conclusion

65. For the reasons given above the appeal should be allowed.

Nick Fagan

INSPECTOR

Schedule of Conditions

Submission of Outstanding Reserved Matters

1. Details of appearance, landscaping, layout and scale, (hereafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and thereafter the development shall be carried out in accordance with the details approved.

REASON: The application as submitted does not give particulars sufficient for consideration of the reserved matters.

Time Limit for the Submission of the Outstanding Reserved Matters

2. Applications for the approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

REASON: To comply with the requirements of Section 92(2) of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Time Limit for the Commencement of the Outline Planning Permission

3. The development hereby permitted shall be begun within two years from the date of the final approval of the reserved matters. The development shall be carried out as approved.

REASON: To comply with the requirements of Section 92(2) of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Approved Plans

4. The reserved matters shall be submitted in accordance with the details set out in the following approved plans:

- 11096-L-01 P04 – Location Plan
- 1727/10 Rev B – Proposed Access Arrangements
- 1727/11 – Proposed Wall Pillar

REASON: For the avoidance of doubt and to ensure that the development is carried out in accordance with the details as approved.

Plan to Influence the Reserved Matters

5. The details submitted pursuant to Condition 1 (the reserved matters) shall be broadly in accordance with the Development Framework Plan (drawing ref: 11096-L-02 Rev P23).

REASON: To ensure that the development is carried out in broad accordance with the Development Framework Plan.

Housing Mix

6. The layout matter to be submitted under condition 1 shall include a housing mix having regard to Maldon District Council's latest Local Housing Needs Assessment. The development hereby permitted shall be carried out in accordance with the approved details.

REASON: In order to ensure that an appropriate housing mix is provided for the proposed development taking into account the objective of creating a sustainable, mixed community contained in Policy H2 of the approved Maldon District Development Local Plan and the guidance contained in the National Planning Policy Framework.

Maximum Height for the Development

7. The development shall be a maximum of two storeys in height.

REASON: In the interests of visual amenity of the area in accordance with policy D1 of the adopted Maldon District Local Development Plan.

Levels

8. No development shall commence until details of finished site and external surface levels, as well as the finished floor level of the dwellings have been submitted to and approved by the local planning authority. The development shall be implemented in accordance with the agreed details.

REASON: In order to safeguard the amenities of neighbouring occupiers and in the interests of visual amenity of the area in accordance with policy D1 of the adopted Maldon District Local Development Plan.

Tree and Hedge Retention

9. The trees and hedges identified for retention on the approved plan drawing number(s) 11096-T-02 Rev F from the Arboricultural Impact Assessment shall be protected during the course of the development. The trees and/or hedges shall be protected by chestnut paling fencing for the duration of the construction period at a distance equivalent to not less than the spread from the trunk. The protective fencing and ground protection shall be erected before the commencement of any clearing, demolition and building operations and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced protection zone(s) no materials shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence, nor shall any change in ground level be made within the fenced area unless otherwise first agreed in writing by the local planning authority. If within five years from the completion of the development a tree or hedge shown to be retained is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, a replacement 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.

REASON: To secure the retention of the trees/hedges within the site in the interests of visual amenity and the character of the area in accordance with policy D1 of the adopted Maldon District Local Development Plan.

Visibility Splays

10. Prior to the first occupation of the development, the site access on Queenborough Road shall be constructed and provided in accordance with visibility splays as shown in Ashley Helme Associates' Drawing no 1727/10 Rev B and these visibility splays shall be maintained clear and free from obstruction at all times thereafter.

REASON: To provide adequate inter-visibility between vehicles using the site access and those in the existing public highway, in the interest of highway safety and in accordance with policy T2 of the adopted Maldon District Local Development Plan.

Site Access

11. Prior to the first occupation of the development and as shown in principle in Ashley Helme Associates' Drawing no 1727/10 Rev B, the site access and the area around it shall be constructed and provided in accordance with the following:

- Dropped kerb crossing together with tactile paving at the bellmouth of the proposed new junction;
- A 2 metre footway on either side of the proposed access road;
- Dropped kerb crossing together with tactile paving on Queenborough Road at a point approximately 70m south of the proposed access junction.

The site access shall be carried out in accordance with these details and once constructed the above requirements shall be maintained and retained at all times thereafter.

REASON: To provide safe access for both pedestrians and the mobility impaired in the interest of accessibility in accordance with policies D2 and T2 of the adopted Maldon District Local Development Plan.

Pedestrian Crossing Point

12. Prior to the first occupation of the development, the kerbing at the junction of Queenborough Road with High Street shall be improved and include a dropped kerb and tactile paving crossing as shown in principle in Drawing 1727/08 Rev B of the Transport Assessment.

REASON: To improve inter-visibility between vehicles on High Street and Queenborough Road, in the interests of the safety of pedestrians and the mobility-impaired, and in accordance with policies D2 and T2 of the adopted Maldon District Local Development Plan.

Off Site Pedestrian Crossing Points

13. Prior to the first occupation of the development, pedestrian dropped kerbs and tactile paving shall be provided with the precise locations and details of these shall be submitted to and approved in writing by the local planning authority for the following locations:

- The bellmouth of Coombe Road at its junction with Queenborough Road;
- The bellmouth of Regents Close at its junction with Queenborough Road;
- The bellmouth of Pump Mead Close at its junction with Queenborough Road; and
- The bellmouth of North Street at its junction with North End.

The pedestrian dropped kerbs and tactile paving shall be carried out in accordance with these details as approved and once constructed they shall be maintained and retained at all times thereafter.

REASON: To provide safe access for both pedestrians and the mobility impaired in the interest of accessibility in accordance with policies D2 and T2 of the adopted Maldon District Local Development Plan.

Footpath Provision

14. The reserved matters for the approval of layout shall include a scheme of works to provide a footpath at or near the southern boundary of the site as shown indicatively on the Development Framework Plan drawing no. 11096-L-02 Rev P23. The details shall include appropriate surfacing, construction and confirmed alignment. The approved footpath shall be completed prior to the first occupation of the development and shall be retained and maintained as such thereafter.

REASON: In the interests of pedestrian accessibility and in accordance with policies D2 and T2 of the adopted Maldon District Local Development Plan.

Alternative Access Route to the Builders Yard

15. The reserved matters for the approval of layout shall include details of an alternative access route to the builder's yard from the internal site access road shall be submitted to and approved in writing by the local planning authority. This shall include an agreed method to prevent vehicles from using the existing private access track. The alternative access route shall be completed prior to the first occupation of the development and shall be retained and maintained as such thereafter.

REASON: To reduce the potential for conflicting movements between users of the builder's yard and the new development at the junction with Queenborough Road, in the interests of safety and in accordance with policy T2 of the adopted Maldon District Local Development Plan.

Updated Travel Plan

16. Prior to the first occupation of the development, an updated residential travel plan shall be submitted to and approved by the local planning authority. The approved travel plan shall be actively implemented for a minimum period from first occupation of the development until 1 year after final occupation.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies D2 and T2 of the adopted Maldon District Local Development Plan.

Residential Travel Information Pack

17. Prior to the first occupation of each dwelling, a Residential Travel Information Pack for sustainable transport to each dwelling shall be provided the details of such a Pack shall be submitted to and approved by the local planning authority but shall include six one day travel vouchers for use with the relevant local public transport operator).

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies D2 and T2 of the adopted Maldon District Local Development Plan.

Cycle Parking

18. The reserved matters for the approval of layout, appearance and scale shall include details of bicycle and powered two wheel storage facilities for each dwelling.

The bicycle and powered two wheel storage facilities shall be constructed and made available for such purposes in accordance with the approved scheme and retained as such thereafter.

REASON: In the interests of highway safety and to ensure that adequate car parking provision is available in accordance with policies D2 and T2 of the adopted Maldon District Local Development Plan.

Surface Water Drainage Scheme

19. No development except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall include:

a) Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in found in chapter 25.3 of The CIRIA SuDS Manual C753.

b) Limiting discharge rates to 9.2l/s for all storm events up to and including the 1 in 100 year plus 45% allowance for climate change storm event subject to agreement with the relevant third party/all relevant permissions to discharge from the site into any outfall should be demonstrated.

c) Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 45% climate change event.

d) Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 45% climate change critical storm event.

e) Final modelling and calculations for all areas of the drainage system.

f) The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. Permeable paving must be provided within the shared roads and driveways.

g) Detailed engineering drawings of each component of the drainage scheme.

h) A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.

i) An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

REASON:

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment.
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.
- In accordance with policy D5 of the adopted Maldon District Local Development Plan.

Maintenance Plan for Surface Water Drainage Scheme

20. Prior to the first occupation of the development a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and approved in writing by the local planning authority. Should any part be maintainable by a management company, details of long term funding arrangements shall be provided.

REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site. In accordance with policy D5 of the adopted Maldon District Local Development Plan.

Foul Drainage Strategy

21. No development shall commence until details of the proposed foul drainage has been submitted to and approved in writing by the local planning authority. This should identify the connection point to the 225mm sewer at MH7003 located in Queenborough Road at National Grid reference (NGR) TL 95744 00023. The foul water drainage works shall have been carried out in accordance with the approved scheme.

REASON: To reduce the impacts of flooding and potential pollution risk in accordance with policy D5 of the adopted Maldon District Local Development Plan.

Biodiversity Construction Environmental Management Plan

22. 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.

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

REASON: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended), and in accordance with policy N2 of the adopted Maldon District Local Development Plan.

Biodiversity Enhancement Strategy

23. Prior to the commencement of development, a Biodiversity Enhancement Strategy for protected, Priority and threatened species, prepared by a suitably qualified ecologist in line with the recommendations of the (Ecology Impact Assessment, FPCR Ltd, February 2025), 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; and

e) details of initial aftercare and long-term maintenance (where relevant).

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

REASON: To enhance protected, Priority and threatened species and allow the LPA to discharge its duties under paragraph 187d of the NPPF (2024) and s40 of the NERC Act 2006 (as amended), and in accordance with policy N2 of the adopted Maldon District Local Development Plan.

Lighting Strategy

24. Prior to the first occupation of the development, 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 the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

REASON: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended), and in accordance with policy N2 of the adopted Maldon District Local Development Plan.

Habitat Management and Monitoring Plan

25. Prior to the first occupation of the development, a Habitat Management and Monitoring Plan (HMMP) for significant on-site enhancements, prepared in accordance with the approved Biodiversity Gain Plan shall be submitted to and approved in writing by the local planning authority, this shall include:

a) the roles and responsibilities of the people or organisation(s) delivering the HMMP;

b) the planned habitat creation and enhancement works to create or improve habitat to achieve the on-site and off-site significant enhancements in accordance with the approved Biodiversity Gain Plan;

c) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development;

d) the monitoring methodology in respect of the created or enhanced habitat to be submitted in writing to the local planning authority; and

e) details of the content of monitoring reports to be submitted in writing to the local planning authority, including details of adaptive management which will be undertaken to ensure the aims and objectives of the Biodiversity Gain Plan are achieved.

Notice in writing shall be given to the Council when the initial enhancements, as set in the HMMP, have been implemented; and habitat creation and enhancement works, as set out in the HMMP, have been completed after 30 years.

The created and/or enhanced habitat shall be managed and maintained in accordance with the approved HMMP.

REASON: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as

amended), and in accordance with policy N2 of the adopted Maldon District Local Development Plan.

Acoustic Fence

26. The reserved matters for the approval of layout, scale and appearance shall include details of the site access road and the design of any associated acoustic fence that shall be located within the site. The submitted details shall include an assessment of noise arising from traffic accessing the development upon existing noise sensitive receptors adjacent to the site such that the free-field sound levels at a location external to any bedroom or living room window, assessed at a distance 1m perpendicular to the centre of the window do not exceed the following values:

Living rooms – 50 dB LAeq,0700-2300hrs

Bedrooms – 50 dB LAeq,0700-2300hrs and 45 dB LAeq,2300-0700hrs; 60dB LAFmax,2300-0700 (more than 10-15 times per night).

Prior to the first occupation of the development, the acoustic fence as approved through the reserved matters shall be installed and shall then be maintained and retained in its approved location at all times thereafter.

REASON: To ensure the amenities of the occupiers of 48 Queensborough Road are not subject to excessive noise and disturbance from activity and passing traffic using the access road in accordance with policy D1 of the adopted Maldon District Local Development Plan.

Archaeology

27. No development or preliminary groundworks of any kind shall take place until:

- Part 1 – A programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- Part 2 – The completion of the programme of archaeological evaluation identified in the WSI defined in Part 1 and has been confirmed in writing by the local planning authority's archaeological advisors.
- Part 3 – A mitigation strategy detailing the excavation / preservation strategy has been submitted to and approved in writing by the local planning authority following the completion of the archaeological evaluation.
- Part 4 – The satisfactory completion of fieldwork, as detailed in the mitigation strategy in Part 3 has been submitted to and approved in writing by the local planning authority.
- Part 5 – The applicant has submitted a post excavation assessment which has been submitted to and approved in writing by the local planning authority. This shall be done within 6 months of the date of completion of the archaeological fieldwork.
- Part 6 – Suitable provision has been for the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

REASON: To ensure that investigation and recording of any remains takes place prior to commencement of development in accordance with policy D3 of the adopted Maldon District Local Development Plan.

Phase 2 Contamination and Risk Assessment

28. No development shall commence until a phase 2 intrusive site investigation and risk assessment has been carried out and the findings submitted to and approved in writing with the local planning authority. The report of the findings must include:

1. A survey of the extent, scale and nature of contamination;

2. 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

An appraisal of the remediation options shall include timescales and phasing of remediation works. 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.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policies D1 and D2 of the adopted Maldon District Local Development Plan.

Energy Efficiency and Renewable Energy

29. The reserved matters for the approval of layout and appearance shall include details of energy efficient and renewable energy installations for each dwelling.

The energy efficient and renewable energy installations as approved shall be provided prior to the first occupation of each dwelling they serve and shall be permanently maintained and retained at all times thereafter.

REASON: In the interests of residential amenity and to ensure that the development can be integrated within its immediate surroundings in accordance with policies D1 and D2 of the adopted Maldon District Local Development Plan.

Refuse and Recycling

30. The reserved matters for the approval of layout and appearance shall include full details of the number, size, location, design and materials of bin and recycling stores to serve the development, together with details of the means of access to bin and recycling stores for residents and refuse operatives, including collection points if necessary.

The bin and recycling stores as approved shall be provided prior to the first occupation of each dwelling and shall be constructed and permanently retained at all times thereafter.

REASON: In the interests of residential amenity and to ensure that the development can be integrated within its immediate surroundings in accordance with policies D1 and D2 of the adopted Maldon District Local Development Plan.

Superfast Broadband Strategy

31. No development shall commence until a strategy to facilitate superfast broadband for future occupants of the site has been submitted to and approved in writing by the local planning authority. The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway, unless evidence is put forward and agreed in writing by the local planning authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure. The development of the site shall be carried out in accordance with the approved strategy.

REASON: In order to ensure that suitable infrastructure is provided at the site for the benefit of occupiers, in accordance with paragraph 119 of the NPPF.

Construction Environmental Management Plan

32. No demolition or construction works shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority in writing. The CEMP should contain or address the following matters:

a) Hours for the construction of the development
b) Hours and duration of any piling operations,
c) Location and size of on-site compounds [including the design layout of any proposed temporary artificial lighting systems];
d) Details of any temporary hardstandings;
e) Details of temporary hoarding;
f) Details of the method for the control of noise with reference to BS5228 together with a monitoring regime;
g) Measures to reduce vibration and mitigate the impacts on sensitive receptors together with a monitoring regime;
h) Measures to reduce dust with air quality mitigation and monitoring,
i) Measures for water management including waste water and surface water discharge;
j) A method statement for the prevention of contamination of soil and groundwater and air pollution, including the storage of fuel and chemicals;
k) Details of a procedure to deal with any unforeseen contamination, should it be encountered during development;
l) A Site Waste Management Plan,

m) Details of security lighting layout and design; and

n) Contact details for site managers including information about community liaison including a method for handling and monitoring complaints.

o) Construction vehicle routing

p) the parking of vehicles of site operatives and visitors

q) loading and unloading of plant and materials

r) areas for storage of plant and materials used in constructing the development

s) wheel and underbody washing facilities

t) a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works

Works on site shall only take place in accordance with the approved CEMP.

REASON: In order to minimise any adverse impacts arising from the construction of the development in accordance with policy D1 and D2 of the adopted Maldon District Local Development Plan.

Informative

Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition") that development may not begin unless:

a) a Biodiversity Gain Plan has been submitted to the planning authority, and

b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Maldon District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed in paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

APPEARANCES

FOR THE APPELLANT: *Christian Hawley* (of No 5 Chambers) instructed by the appellant called:
-*Gary Holliday*, BA (Hons), M Phil, FLI, Director of FPCR Environment & Design Ltd – Landscape & Visual matters
-*James Healey*, BSc (Hons), MIOA, Director of Peninsula Acoustics – Noise
-*Jason Tait*, BA (Hons), DipTP, MRTPI, Director of Planning Prospects Ltd – Planning

FOR THE LOCAL PLANNING AUTHORITY: *Kimberley Ziya* (of Landmark Chambers) called:
-*John-Paul Friend* BA (Hons) PGDip LA CMLI, Director of LVIA Ltd – Landscape & Visual matters
-*Sam Bryant* MPhys CEng MIOA, Director of Cass Allen Associates Ltd – Noise
-*Geoff Megarity* BA (Hons) MRTPI, Associate at Bell Cornwell LLP – Planning

INTERESTED PARTIES:
- *Cllr Adrian Fluker*, elected Member for this Ward
- *Mr Shalab Aggarwal*, the owner/occupier of No 48 Queenborough Road

DOCUMENTS

All the Core Documents, including any documents introduced at the Inquiry itself and the finalised S106 agreed subsequently can be found by clicking on the following link to the relevant SharePoint file on the PINS website, at least until the end of the High Court challenge period.

MajorCasework - Documents - 6005664 - All Documents