

Appeal Decision

Inquiry opened on 6 February 2024

Accompanied site visit made on 8 March 2024

by Matthew Nunn BA BPI LLB LLM BCL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th July 2024

Appeal Ref: APP/X1545/W/23/3331398

Land north of The Groves, Burnham Road, Latchingdon, Essex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Catesby Strategic Land Ltd against the decision of Maldon District Council.
- The application Ref 22/01174/OUTM, dated 14 November 2022, was refused by notice dated 30 June 2023.
- The development proposed is 'outline planning application (with all matters reserved except for means of access from Steeple Road and Burnham Road) for residential development of up to 160 dwellings including affordable housing, 10% bungalows, 100 sqm of office hub floorspace, 0.21ha of land for children's day nursery and associated parking (Use Class E), community park, sustainable urban drainage system and associated infrastructure'.

Decision

1. The appeal is allowed and outline planning permission granted (with all matters reserved except for means of access from Steeple Road and Burnham Road) for a residential development of up to 160 dwellings including affordable housing, 10% bungalows, 100sqm of office hub floorspace, 0.21ha of land for a children's day nursery and associated parking (Use Class E), community park, sustainable urban drainage system and associated infrastructure on land north of The Groves, Burnham Road, Latchingdon, Essex, in accordance with the terms of the application Ref 22/01174/OUTM, dated 14 November 2022, subject to the conditions in the attached schedule.

Procedural Matters

2. The planning application was made in outline with all matters apart from access reserved for subsequent determination. The Inquiry sat from 6-8 February 2024, with closing submissions made in writing. I held a Case Management Conference (CMC) on 6 December 2023 to discuss the ongoing management of the Inquiry, the likely main issues, including the best method for hearing the evidence, to ensure the efficient and effective running of the Inquiry.
3. At the CMC, the Appellant made a request for the proposal to be amended to increase the affordable housing element from 40% to 50%; and to increase the bungalow element from 5% to 10%. No change was proposed to the overall number of dwellings, although a minor change was required to the

application description, replacing '5%' with '10%'. The Council confirmed it had no objection to the amendment¹. Having regard to *Wheatcroft*² and *Holborn Studios*³, I confirmed in my CMC note⁴ that I was content for the appeal to proceed on this basis, and I have dealt with it accordingly. The description in the header above reflects the amendment.

4. The planning application was recommended for approval by Council Officers but refused by the Planning Committee for a single reason: essentially that the development would be located outside the settlement boundary, would not represent sustainable development, and that the adverse impacts would not outweigh the benefits. No other clarification was given⁵.
5. The Council's subsequent Statement of Case⁶ referred to the District being subject to infrastructure constraints, requiring a plan-led approach to be taken to ensure that future shortfalls in infrastructure provision are not exacerbated and that remaining capacity is retained for growth planned through the Development Plan. The Statement of Case also mentioned it had not been demonstrated that the proposal, when considered cumulatively alongside other commitments, would not lead to overloading the existing finite limited infrastructure capacity⁷.
6. At the CMC, the Appellant pointed out that no objections had been raised to these matters in the Officer's Committee Report, nor had statutory consultees objected. The Council confirmed at the CMC that its case was more an overall 'policy' point: that the scheme was contrary to the development plan strategy, rather than a case including specific infrastructural concerns. The Council has subsequently confirmed that it is not pursuing any infrastructural concerns⁸.
7. A planning obligation has been completed, dated 19 February 2024, between the developer, the landowner, the Council, and Essex County Council (the County Council). I deal with its provisions in the body of my decision.
8. The plans for determination are agreed and are listed in Condition 3. The Illustrative Masterplan (Drawing No 08I) which accompanied the application shows one way the proposal could be built but is indicative only. I have treated it accordingly. The development was screened under the relevant Environmental Impact Assessment (EIA) regulations⁹ and found not to constitute EIA development.

Main Issue

9. In the light of the above, the main issue is the acceptability of the proposal having regard to the adopted development plan and national policy, and whether there are material considerations to justify a determination other than in accordance with the development plan.

¹ Statement of Case, Paragraph 1.5 [CD 9.2]

² *Bernhard Wheatcroft Ltd v SSE* [JPL 1982 P37]

³ *R(Holborn Studios) v London Borough of Hackney* [2017] EWHC 2923

⁴ Dated 12 December 2023 [CD 9.8]

⁵ CD 2.2 & CD 2.3

⁶ CD 9.2

⁷ Paragraph 4.3

⁸ Statement of Common Ground (SoCG), Paragraph 8.27 [CD 9.3]

⁹ Town and Country Planning (Environmental Impact Assessment) Regulations 2017

Reasons

Planning Policy Context

10. The statutory development plan comprises the Maldon District Local Development Plan (2014-2029), adopted in July 2017 ('the Local Plan'). The refusal notice cites Policies S1 (Sustainable Development), S2 (Strategic Growth), S8 (Settlement Boundaries and the Countryside), D1 (Design Quality and the Built Environment) and H4 (Effective Use of Land) of the Local Plan. Given the Council accepts that a scheme of a high quality design could be secured at reserved matters stage, it no longer relies on conflict with Policies D1 and H4¹⁰.
11. It is agreed that the key policies for the determination of this appeal are Policy S1, S2 and S8. Policy S1 sets out the key principles to achieve sustainable development. It contains a series of criteria, including directing housing to the most sustainable locations, promoting the effective use of land including prioritising previously developed land or allocations, and maintaining the rural character of the district, and the protection of settlement identity.
12. Policy S2 sets out the growth strategy for the District, requiring growth to be delivered through sustainable extensions to Maldon, Heybridge and Burnham-on-Crouch in the form of garden suburbs and strategic allocations. A proportion of new development is to be directed to rural villages to support rural housing needs, local services and facilities and the rural economy. Growth in rural villages will, amongst other things, be related to the settlement hierarchy and reflect the size, function and physical capacity of the settlement.
13. Policy S8 deals with settlement boundaries and the countryside, and establishes a settlement hierarchy, comprising main settlements, larger villages, smaller villages and other villages. Latchingdon is defined as a 'smaller village'. The policy also requires that planning permission will only be granted where, firstly, the intrinsic character and beauty of the countryside is not adversely impacted upon, and secondly, it falls within a range of categories of deemed acceptable development within the countryside. These include, amongst other things, development identified in neighbourhood plans, employment uses, community facilities, rural diversification schemes, tourism and rural exception sites for affordable housing.
14. Essentially, therefore, the spatial strategy as set out in Policies S1, S2 and S8, taken together, is to direct the majority of new housing to within or adjacent to the three main settlements of Maldon, Heybridge and Burnham-on-Crouch, and to allow only limited growth in lower tier settlements, including villages, and to restrict development, particularly market housing, on sites outside settlement boundaries.
15. The main parties agree that the proposal would generally conflict with the spatial strategy of the Local Plan. This is because the development would be located outside the settlement boundary of Latchingdon, a 'smaller village', and it does not fall within any of the exceptions for acceptable development.

¹⁰ Council's Opening Submissions, Paragraph 5(d)

The proposal does not lie in one of the most sustainable locations as defined by the Local Plan – namely one of the three main settlements, nor is it on previously developed land, or at a Garden Suburb or Strategic Allocation. To that extent, it would be contrary to Policies S1, S2 and S8.

Character and Appearance, including Landscape

16. The appeal site comprises an irregularly shaped area extending to around 10.2 hectares. It consists of two arable fields located between Steeple Road to the north, and Burnham Road to the south. There are hedgerows and occasional trees separating the two fields, as well as bordering the roads to the north and south. The site is generally flat but rises gently upwards from the north to the south. Immediately to the west, abutting the site, is an expanse of modern 20th and 21st century residential development, with dwellings of different designs. To the east are open fields, except for a substantial detached dwelling and its curtilage, inset to the south-eastern corner of the site. The site lies outside, but immediately adjacent to the eastern boundary of the village.
17. The Council's approach in terms of the impact on the character and appearance of the area, including the landscape, has been rather confused. The original Officer's Committee Report noted that the harm to character and appearance would be limited and relatively localised, and insufficient to outweigh the benefits of granting planning permission¹¹. In addition, the reason for refusal did not identify any visual harm to the landscape, nor harm to the character and appearance of the area. By contrast, in its subsequent Statement of Case, the Council argued that the development would 'fundamentally and irreversibly alter the character of the countryside and identity of Latchingdon'¹².
18. Importantly, however, the Council has subsequently clarified its position: it is agreed there is no objection in terms of the landscape and visual impact of the scheme, and that any effects would be limited and localised¹³. This was re-iterated by the Council at the Inquiry¹⁴. It was further agreed that the site is not identified as a 'valued landscape' in terms of the Framework¹⁵, nor is it specifically designated nationally or locally. The Appellant's Landscape and Visual Impact Appraisal (LVIA)¹⁶ demonstrates that there would be no unacceptable landscape impact, and there is no competing LVIA undertaken by the Council which reaches a contrary view.
19. At the Inquiry, the Council raised concerns regarding the impact of the proposal on the 'identity' of Latchingdon. In doing so, it sought to rely on a rather technical distinction between 'rural character' and 'landscape character'. The essence of the point was that 'rural character' is a wider concept that may include the 'size and shape' of settlements and can embrace considerations with no obvious landscape component¹⁷. The Council also argued that the proposal 'would further weaken the linear character of Latchingdon, by pulling built form to the east and even further

¹¹ Paragraph 5.7

¹² Paragraph 4.4 [CD 9.1]

¹³ SoCG, Paragraph 8.23 [CD 9.3]

¹⁴ Council's Opening Submissions, Paragraph 5(c)

¹⁵ Paragraph 180

¹⁶ CD 1.13

¹⁷ Council's Closing Submissions, Paragraph 43

from the village core along the Burnham Road¹⁸. This, it is asserted, would impact on the settlement identity of Latchingdon, weakening its legibility as an historic agricultural settlement of the Dengie. It is also alleged the village's historic character would be undermined.

20. I do not agree with any of these propositions. In this instance, I find the 'rural character' and 'landscape' distinction somewhat artificial and nebulous. Certainly, I accept that the proposal would enlarge the village but this, of itself, does not mean the identity of the village would be compromised or harmed. In my judgement, the development would simply create a modern housing estate, immediately adjacent to other existing modern residential development, including at Beech Drive, Willow Close and Elder Road. Given the existing context, I see no reason why it would appear incongruous.
21. The development would inevitably result in the loss of open agricultural land and some degree of urbanisation of the countryside. However, whilst pleasant enough, the appeal land is relatively flat, nondescript and unremarkable, and is perceived in the urbanised context of the existing modern settlement edge. Indeed, the eastern edge of the village, bordering the site, comprising modern housing, is currently harsh and prominent. The proposals would simply extend the urban boundary further eastwards across an area of agricultural land that is already influenced by the existing stark built-up boundary.
22. I acknowledge that the historic form of the village is broadly linear, but there is significant modern development in the form of culs-de-sac that has disrupted this typology, including nucleated development adjacent to the site. This means that the proposal would not appear out of place. Although 160 additional homes would be a reasonably significant number of new dwellings in a village of this size, it does not follow that such an arithmetical increase could not be adequately assimilated in the locality.
23. The landscaping strategy shows how the appeal proposals would provide significant additional landscaping, including the planting of native species of trees and additional hedgerows. An area of woodland is also proposed, as well as a substantial area of public open space. The landscaping would provide a high quality setting to the new development, and because of the extensive proposed perimeter planting, would provide a softer edge to the village, compared with the existing situation. Thus, the integration of the settlement with the surrounding landscape would be enhanced, and the perception of the village within an agricultural landscape would remain intact.
24. In my judgement, the site would be an obvious and logical location for housing, and the overall impact on the character and appearance of the area, including the landscape would be minimal, and in some respects, would be improved, because of the proposed landscaped 'soft edge'. As such, I find no fundamental conflict with Policy S1(12) which requires the rural character of the District to be maintained without compromising the identity of individual settlements.

¹⁸ Council's Closing submissions, Paragraph 53

Other Material Considerations

25. I now turn to other material considerations, and whether these outweigh the agreed conflict with the Local Plan, bearing in mind its statutory priority.

Housing – Market and Affordable

26. In recent years, the Council has been unable to demonstrate a five year supply of housing¹⁹. However, matters have improved, and as things currently stand, it is agreed that the Council can demonstrate a five year supply of housing at 5.97 years²⁰. The most recent Housing Delivery Test (HDT) was 155% thereby comfortably exceeding Framework requirements²¹. Consequently, the so-called 'tilted balance' is not engaged by the Framework²² in this appeal. Maldon is currently performing satisfactorily when measured against the Government's yardsticks of choice, identified in the Framework, namely five year supply and HDT.
27. The Appellant has presented much detailed statistical evidence showing that the Council can only demonstrate a five year supply of housing because of the significant reliance on greenfield windfall sites, and because of a reduced local housing need figure, using the standard method. It is argued that additional greenfield land will be needed to maintain the supply, and that overall there has been a significant failure of the spatial strategy. Detailed evidence has also been presented by the Appellant seeking to show that the housing supply situation is more fragile than it may appear at first glance, including that the housing supply is set to fall and further windfall sites will be required to maintain supply. Aspects of the Appellant's analysis were disputed by the Council, although it was accepted that a five year supply has, to date, been reliant on granting permission on greenfield sites.
28. Much time could be spent debating these matters, but it was agreed at the CMC that it would not be necessary to undertake an in-depth and potentially time-consuming analysis of housing land supply, given the agreement that the necessary five-year supply currently exists²³. As the Council notes, the Framework mandates how decision makers should assess the housing situation, and both the five year housing supply and HDT results are currently satisfactory. If that situation changes in the future, then policy consequences will follow²⁴.
29. However, it is the case that the Council, in a recent review of housing land supply, recognised that plan allocations have failed to deliver as planned and some of the Local Plan policies contain 'many constraining caveats making it difficult for developers to gain planning permission²⁵. This review also noted that the settlement boundaries 'effectively squeeze out' opportunities for windfall development, with housing being refused as being in the open countryside, 'even when it is adjacent to existing settlements and could be acceptable in all other considerations'²⁶. Further observations were made that the Local Plan policies are 'not written very clearly, compared with more

¹⁹ Appellant's Closing Submissions, Paragraph 33

²⁰ Housing Statement of Common Ground, Paragraph 1.17 [CD 9.4]

²¹ Housing Statement of Common Ground, Paragraph 1.14 [CD 9.4]

²² Paragraph 11(d) Footnote 8

²³ CMC Note, Paragraph 21 [CD 9.8]

²⁴ Council's Closing Submissions, Paragraph 72

²⁵ Paragraph 5.5, Overview and Scrutiny Committee, Appendix A, July 2022 [CD 5.9]

²⁶ Ibid

recent plans' and that the Plan's Settlement Hierarchy 'is out of date' and 'arguably the work done on it was not robust enough'²⁷. This, it is noted, has resulted in applications being refused in settlements which could be considered sustainable if the evidence base had been carried out more robustly.

30. I acknowledge that these observations were made in the context of an absence of a five year supply, rather than the current satisfactory situation. Nonetheless, any conflict with the Local Plan needs to be considered in the light of the Council's own observations on its content, and its failure to deliver sufficient housing in recent years. Indeed, the Council is now committed to undertaking a Plan Review, although it is still at an early stage²⁸.
31. Fundamentally, and very importantly, a five year supply should not be regarded as a cap on development, rather a minimum requirement of national policy. It should not preclude further development in appropriate circumstances. The Framework sets out the Government's objective of significantly boosting the supply of homes²⁹. To achieve this, the Framework notes that it is important that a sufficient amount and variety of land can come forward where it is needed.
32. The scheme would deliver up to 160 dwellings, of which 50% or 80 units would be affordable³⁰, comprising a tenure mix reflective of local identified needs. The exact mix of market housing would be agreed by condition. In addition, 10% of the new homes would be bungalows, which would assist in meeting the needs of older people. This would equate to 16 homes. The proposal would clearly make a very positive contribution to the provision of market and affordable housing in the Borough.
33. The Council does not dispute that there is an acute and pressing need for affordable housing and the Local Plan specifically recognises that there is a significant shortfall in the District and increasing supply is a key priority for the Council³¹. The Appellant's evidence on affordable housing was not questioned³². The Local Housing Needs Assessment acknowledges that there is a 'notable need' for affordable housing which is 'important and pressing'³³. The delivery of affordable homes has been well below compared with what is required³⁴. As noted, 50% of the homes would be affordable, and the agreed tenure split would be 75% affordable rent and 25% intermediate, in accordance with Policy H1 of the Local Plan. The provision of both market and affordable housing together attracts substantial weight in favour of the scheme.

Economic Benefits

34. The scheme would generate economic benefits, both short term during the construction phase, and during the lifetime of the development. It would create investment in the locality and increase spending in local shops and

²⁷ Ibid

²⁸ Local Development Scheme 2023 [CD 5.1]; Maldon District Issues and Options Consultation 2022 [CD 5.2]

²⁹ Paragraph 60

³⁰ This would exceed the normal 40% requirement of Policy H1 of the Local Plan

³¹ Paragraph 5.2 of the Local Plan

³² Proof of Mr Jamie Roberts

³³ CD 5.8, Paragraph 8.121

³⁴ Appellant's Closing Submissions, Paragraphs 55- 65

services. The scheme also sets aside part of the northern portion of the site for an office hub of 100 sqm for home working and starter businesses. The Framework advises that significant weight should be placed on the need to support economic growth and productivity³⁵. Such benefits should not be downplayed, and they attract significant weight in favour of the proposals.

Environmental and Social Benefits

35. The scheme would deliver environmental benefits, including some 4.25 hectares of public open space, amounting to 42% of the site. This is a very significant area of open space that would be available to new and existing residents. It would include recreation and children's play areas, allotments, ecological areas, walking and cycling routes. In this way, the proposal would improve opportunities for recreation, enabling and supporting healthy lifestyles in accordance with the Framework³⁶. It would also assist in responding to deficiencies identified in the Council's Green Infrastructure Study, particularly in respect of local equipped areas for play (LEAPs), neighbourhood equipped areas for play (NEAPs) and allotments³⁷.
36. The majority of existing important trees and much of the hedgerows would be retained on site, and there would be substantial new structural landscaping and planting. There would be a Biodiversity Net Gain (BNG) of 30.41% (habitats) and 40.51% (linear features) resulting in significant gains in respect of biodiversity.
37. The scheme includes the provision of electric charging points for each new home. Sustainable transport modes include ultra-low and zero emission vehicles³⁸. The charging points may encourage the uptake of this form of sustainable transport. All these environmental and social benefits, taken together, attract significant weight.
38. The scheme also provides an area of land (some 0.21 hectares) in the northern portion of the site for a children's day nursery. According to the Appellant, this could potentially accommodate a single storey building of 300 sqm with a dedicated parking and play area. This facility would assist in meeting the pre-school education needs of future residents. The planning obligation sets out provisions for securing this facility, including that the land would be provided as local open space if it does not proceed. Whilst it is clear the provision of the day nursery cannot be unequivocally guaranteed at this stage, given that a contract needs to be entered into with a prospective end user, the provision of land for this purpose attracts some weight in favour of the scheme.

Locational Accessibility

39. In terms of locational accessibility, Latchingdon is an established village with a number of services and facilities, which are accessible by foot, cycle and public transport. The Officer's Committee Report noted that 'Latchingdon is considered to be a sustainable location for new development'³⁹. In addition, the Housing and Economic Land Availability Assessment 2023, whilst I

³⁵ Paragraph 85

³⁶ Paragraph 96

³⁷ CD 4.3, page 43

³⁸ Framework Glossary: 'Sustainable Transport Modes', Page 76

³⁹ Paragraph 4.4.1, CD 2.1

appreciate does emphatically not allocate land, nor does it determine whether sites should be granted permission, nonetheless concluded this site is accessible to local facilities⁴⁰. I see no reason to take a different view on this matter.

40. The Appellant has drawn attention to the Council's proposal to 'upgrade' Latchingdon to a 'large village' in the emerging 'Regulation 18' Local Plan. This followed on from analysis within the Rural Studies Survey and Settlement Pattern (May 2023)⁴¹ which forms part of the evidence base for the review of the Local Plan. I accept this proposed 'upgrade' would appear to suggest that the Council now regards Latchingdon as relatively sustainable in terms of providing a range of services and facilities, with reasonable connectivity to the main towns.
41. On the other hand, the emerging local plan and its evidence base has not been subject to scrutiny through the examination process, and the County Council, one of the statutory consultees, has disagreed with the updated settlement hierarchy and raised questions about the proposed upgrading of Latchingdon to a 'large village'. Some degree of caution is therefore required on this matter given these uncertainties. Nonetheless, the relative locational accessibility and sustainability of Latchingdon, as identified in the Officer's Committee Report, weighs moderately in favour of the proposal.

Other Matters

42. *Heritage assets*: There are no designated heritage assets within the site, although there are a few Grade II listed buildings in the locality, the nearest being Christ Church, located at the junction of Steeple Road and Burnham Road, around 150 metres away. This is at sufficient distance not to be affected by the scheme. No objection was raised on this basis in the Officer's Committee Report⁴². The parties agree that the proposals would not result in harm to any designated heritage assets⁴³ and I agree. As such, there would be no conflict with the relevant legislation on listed buildings⁴⁴.
43. There is a World War II Pillbox, a non-designated heritage asset, located at the northern end of the site adjacent to Steeple Road. This would be retained with an area of new public open space adjacent to it. No harm is alleged by the Council to this non-designated heritage asset and I see no reason to take a different view.
44. *European Sites*: The site falls within the 'Zone of Influence' of several Special Protection Areas (SPAs) and Ramsar sites, forming part of the Essex Estuaries Special Area of Conservation (SAC) as identified within the Essex Coast Recreational Disturbance and Mitigation Strategy (RAMS). These include: the Blackwater Estuary Ramsar/SPA; the Crouch & Roach Estuaries Ramsar/SPA; Dengie Ramsar/SPA; Foulness Estuaries Ramsar/SPA; Benfleet and Southend Marshes Ramsar/SPA; and Thames Estuary & Marshes Ramsar/SPA.

⁴⁰ The site is identified under reference L4 and L6 [CD 5.7]

⁴¹ CD 5.6

⁴² Paragraph 4.13.3 [CD 2.1]

⁴³ SoCG, Paragraph 8.6 [CD 9.3]

⁴⁴ Section 66(1) Planning (Listed Buildings and Conservation Areas) Act 1990

45. The relevant Regulations⁴⁵ require that if the development is likely to have a significant effect on the internationally important features of a European Site, (either alone or in combination with other plans or projects), it is necessary to conduct an Appropriate Assessment, having regard to the site's Conservation Objectives, and advice from Natural England. Development can only proceed if it can be ascertained that the proposal would not adversely affect the integrity of the European Site. In this case, a shadow Appropriate Assessment was conducted by the Appellant which concluded that the proposal would not have an adverse effect on the integrity of any of the sites in question, subject to suitable mitigation.
46. I understand that Natural England raises no objections to the scheme, provided that suitable mitigation is provided. This can be secured by a condition and planning obligation. I adopt the shadow Appropriate Assessment. I am satisfied that the evidence before me demonstrates that sufficient mitigation would be provided such that the development would not adversely affect the integrity of European Sites.
47. *Other concerns:* Local residents have raised concerns about the increase in traffic, and likely traffic congestion and queues caused by the scheme. However, no objections have been raised by the Highway Authority, subject to the imposition of planning conditions and a planning obligation. I see no reason to take a different view.
48. Concerns have also been raised by residents regarding pressures on local infrastructure, including primary and secondary education and health facilities. Neither the Council, County Council nor the NHS (Mid & South Essex) have objected on these grounds subject to appropriate financial contributions being secured through the planning obligation. I see no reason to disagree.
49. Concerns have been raised by residents in relation to wildlife, ecology, and flooding. Again, these matters would be addressed through the planning conditions and planning obligation.
50. Concerns have been raised by some objectors regarding the effect on living conditions at their homes. The outlook would certainly change from some properties, especially those abutting the western boundary of the site, but the Council has not raised any 'in principle' objections on this basis. The separation distances to the boundaries appear acceptable, and any detailed assessment regarding potential impacts on neighbouring properties in terms of privacy and outlook, daylight and sunlight would need to be considered at reserved matters stage.

Planning Obligation

51. A planning obligation has been completed by the developer, the owner, the Council and the County Council, dated 19 February 2024⁴⁶. This would secure at least 50% affordable housing, not less than 75% of which would be rented housing, and not more than 25% would be intermediate housing (which includes the provision of first homes). The affordable units, including size and bedroom numbers, would be provided in accordance with a scheme

⁴⁵ The Habitats Regulations 2017

⁴⁶ ID8

to be agreed by the Council⁴⁷. The planning obligation includes provisions for: local open space, including its specification and measures for its future maintenance; a day nursery to be provided pursuant to the permission, requiring the developer and owners to use reasonable endeavours to enter into a binding contract with an end user, and if a contract has not been completed by the end of a 12 month period, to provide the land allocated for a day nursery as local open space⁴⁸.

52. The planning obligation requires an Essex Coast RAMS contribution to be paid prior to the occupation of any dwelling towards the mitigation of any harm caused to those sites protected by the Habitat Regulations (£156.76 per dwelling); a contribution for the NHS to increase capacity for medical GP care and ambulance services in the vicinity (£116,600) to be paid prior to the occupation of the fiftieth dwelling⁴⁹.
53. The planning obligation requires up to 25% of the affordable units to be provided as first homes – namely a dwelling which may be disposed of as a freehold (or in the case of flats leasehold) property to a first time buyer, meeting the eligibility criteria, at a discount price (which shall not exceed the specified 'price cap')⁵⁰. The planning obligation requires a residential travel plan to ensure sustainable means of transport are available to residents of the development in accordance with the Framework, including a monitoring fee, and the appointment of a travel plan coordinator; and a bus service contribution payable to the County Council (£450,000) for improvements to bus services past the site to Maldon, Southminster and Burnham⁵¹.
54. The planning obligation requires education contributions, comprising a primary education contribution and a secondary education contribution to be paid to the County Council; a library contribution to be paid to the County Council towards the upgrading of existing facilities at the closest library to the development⁵²; and the provision of an office hub, with not more than 80% of the dwellings to be occupied until the hub has been constructed, and a requirement for it to be transferred to a separate management company on completion for uses authorised by the planning permission⁵³.
55. I have no reason to believe that the formulas and charges used by the Council and County Council to calculate the provisions of the planning obligation are other than soundly based. The Council has provided a Community Infrastructure Levy (CIL) Compliance Statement⁵⁴ which sets out the methodology for calculating the contributions, why they are necessary, and how they would be spent. I am satisfied that the provisions of the obligation are necessary to make the development acceptable in planning terms, that they directly relate to the development, and fairly and reasonably relate in scale and kind to the development, thereby meeting the relevant tests in the Framework⁵⁵ and CIL Regulations⁵⁶. I have taken the planning obligation into account in my deliberations.

⁴⁷ Second Schedule

⁴⁸ Third Schedule

⁴⁹ Fourth Schedule

⁵⁰ Fifth Schedule

⁵¹ Sixth Schedule

⁵² Seventh Schedule

⁵³ Eighth Schedule

⁵⁴ ID7

⁵⁵ Paragraph 57

⁵⁶ Regulation 122

Planning Balance and Overall Conclusion

56. The relevant legislation requires that the appeal be determined in accordance with the statutory development plan unless material considerations indicate otherwise⁵⁷. In this case, there would be conflict with Policies S1, S2 and S8 of the Local Plan in that the scheme would be located outside the settlement boundary in a 'smaller village'. The proposal does not lie in one of the most sustainable locations identified in the Local Plan, namely one of the three main settlements, and is not on previously developed land, or at a Garden Suburb or Strategic Allocation.
57. On the other hand, I agree with the Appellant that there is no real tangible land use planning harm that flows from the proposal's location outside the settlement boundary⁵⁸. I see no reason why the proposal would compromise the identity of Latchingdon, nor harm the character and appearance of the area, or the landscape. Indeed, the scheme, through its proposed extensive landscaping, would provide a much softer edge to the settlement than currently exists. This would result in a visual improvement in how the settlement edge relates to the surrounding countryside. I appreciate that the Council can demonstrate a five year supply of housing. However, this should not be regarded as a cap on development, rather a minimum requirement of national policy. It should not preclude further development in appropriate circumstances.
58. Having carefully considered all the evidence, I find that other material considerations, namely the substantial benefits of the scheme, comprising the provision of market and affordable housing, the various economic, environmental and social benefits, and the reasonable accessibility to shops and services, all taken together, clearly outweigh any harms arising. Overall, whilst I find the scheme conflicts with the development plan, there are weighty material considerations to indicate that permission should be granted. Accordingly, I conclude the appeal should be allowed subject to conditions. I deal with these below.
59. In reaching my decision, I have carefully considered the concerns raised by ward councillors, Latchingdon Parish Council, Althorne Parish Council, local residents and objectors, some of whom appeared at the Inquiry. The strength of public feeling against the proposals was clear. In this case, I have judged that the balance falls in favour of granting permission, because weighty material considerations outweigh any conflict with the development plan. That judgement is specific to these proposals and would not necessarily be the same if applied to other cases.

Conditions

60. I have reviewed the suggested conditions in the light of the discussion at the Inquiry and the advice in the Planning Practice Guidance. The Framework is clear that conditions should only be imposed where they are necessary, relevant to planning, and the development to be permitted, enforceable, precise and reasonable in all other respects⁵⁹. Where necessary I have

⁵⁷ Section 38(6) of the Planning and Compulsory Purchase Act 2004 & Section 70(2) of the Town and Country Planning Act 1990

⁵⁸ A similar conclusion was reached in the Council's Committee Report [CD 2.1]

⁵⁹ Paragraph 56

reworded or amended the conditions for simplicity and consistency. The numbers in brackets relate to the conditions in the schedule.

61. Commencement conditions are required to comply with the relevant legislation (1, 2). A condition requiring reserved matters to be in accordance with the approved plans is necessary for certainty (3). Conditions relating to landscaping, ecology and biodiversity are necessary to ensure these matters are properly dealt with, and to ensure a high quality scheme and to protect priority species (4, 5, 6, 7). A condition is required to ensure Great Crested Newts are protected from harm (8). A condition requiring an Arboricultural Report, taking account of the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan is necessary to protect the health of the trees and hedgerows on the site (9).
62. A condition relating to external lighting taking account of biodiversity and bats is necessary to achieve biodiversity and to safeguard protected species (10). A condition requiring a Construction Management Plan is necessary to ensure highway safety and efficient traffic flow, to protect the environment and to minimise disturbance to local residents during construction (11).
63. A condition relating to archaeology is necessary to evaluate and protect any archaeological remains within the site (12). Conditions relating to potential site contamination are necessary to protect the health of future occupiers, and ensure no pollution is caused to the environment (13, 14). Conditions relating to surface and foul water drainage are necessary to prevent flooding and pollution of the water environment (15, 16, 17).
64. A condition is required to ensure sufficient car parking is available (18). A condition relating to cycle parking is required to encourage sustainable modes of transport (19). Conditions relating to highway works including vehicular accesses and visibility splays are required in the interests of highway safety (20, 21). Conditions relating to the provision of a toucan crossing and bus stops are necessary in the interests of highway safety and sustainability (22, 23).
65. A condition is required to ensure an appropriate housing mix to meet the objective of creating a sustainable, mixed community (24). A condition restricting building heights is necessary to protect the character and appearance of the area (25). A condition requiring an acoustic assessment is necessary to avoid adverse noise effects and to ensure adequate living conditions for future occupiers of the residential dwellings (26). A condition restricting the use of the proposed office hub is necessary to ensure the facility is available for that use (27). A condition relating to a Waste Management Plan is necessary to promote a sustainable form of development (28).
66. A condition relating to broadband provision is necessary to ensure suitable IT infrastructure for future occupiers of the development (29). A condition relating to the provision of an interpretation board in respect of the pillbox is necessary to enhance the local community's understanding of this non designated heritage asset (30).
67. A number of these conditions relate to pre-commencement activities. In each case, the requirement is fundamental to make the scheme acceptable

in planning terms. Subject to the imposition of these conditions, I conclude that the appeal should be allowed.

Matthew Nunn

INSPECTOR

Richborough

APPEARANCES

FOR THE APPELLANT

Giles Cannock KC

Kings Chambers

He called

Charles Mylchreest

Director, The Environmental
Dimension Partnership Ltd

Geoff Armstrong

Director, Armstrong Rigg Planning

Jamie Roberts, Principal Planner, Tetlow King Planning, provided evidence on affordable housing but was not called to appear

FOR THE COUNCIL

Luke Wilcox

Landmark Chambers

He called

David Coleman

Managing Director, DAC Planning

Other contributions from: Michael Johnson, Head of Service (Development Management & Building Control); Juliet Kirkaldy, Planning Officer

INTERESTED PARTIES

Anthony Fitzgerald

Local Resident

Peter Entwistle

Local Resident

Councillor Tony Fittock

Ward Councillor

Councillor Wendy Stamp

Ward Councillor

INQUIRY DOCUMENTS

1. Opening submissions for the Appellant
2. Opening submissions for the Council
3. Closing submissions for the Council
4. Closing submissions for the Appellant
5. Map showing suggested site visit route and viewpoints
6. Suggested final list of conditions
7. CIL Compliance Statement
8. Copy of final executed Planning Obligation dated 19 February 2024

Schedule of Conditions

- 1) **Reserved matters:** Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) **Timescales:** Application for the approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this decision. The development hereby permitted shall be begun no later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) **Approved plans:** The development hereby permitted shall be carried out in accordance with the following plans: Site Location Plan - Drawing 03; Framework Masterplan - Drawing AI21b; Steeple Road Site Access & Connectivity Improvements - 24012-02 Rev a; Steeple Road Site Access General Arrangement & Visibility Splays 24012-02-2 Rev a; Burnham Road Site Access General Arrangement - 24012-02-3 Rev a.
- 4) **Landscaping:** The landscaping details referred to in Condition 1 shall provide full details and specifications of both hard and soft landscape works which shall be submitted to and approved in writing by the local planning authority. The hard landscaping details shall include: the layout of the hard landscaped areas, materials and finishes to be used, details of the means of enclosure, car parking layout, vehicle and pedestrian accesses; height, design and materials for the treatment of all gates, fences, walls, railings and other boundary treatments. The details of the soft landscape works shall include schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers / densities and details of the planting scheme's implementation, aftercare and maintenance programme. The hard and soft landscaping works shall be carried out as approved in accordance with a timetable agreed by the local planning authority. If, within a period of five years from the date of the planting, any tree or plant is removed, destroyed, dies, or becomes seriously damaged or defective, another tree or plant of the same species and size shall be planted in the same place, unless the local planning authority gives its written consent to any variation. All hedgerow boundaries, apart from those required to be removed to allow for the accesses hereby approved, shall be retained and maintained at all times thereafter, unless otherwise agreed with the local planning authority.
- 5) **Landscape and Ecological Management Plan:** A Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority prior to occupation of the development. 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 five-year period);
 - (g) details of the body or organisation responsible for implementation of the plan;
 - (h) ongoing

monitoring and remedial measures. The LEMP shall also include details of the legal and funding mechanism by which the long-term implementation of the plan will be secured by the developer with the management body 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 a timetable agreed with the local planning authority.

- 6) **Ecology:** All mitigation and enhancement measures shall be carried out in accordance with the details contained in the Ecology Impact Assessment (Ramm Sanderson, July 2022). This may include the appointment of an appropriately competent person, for example, an Ecological Clerk of Works (ECOW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details and a timetable agreed with the local planning authority.
- 7) **Biodiversity Enhancement Strategy:** A Biodiversity Enhancement Strategy for protected and priority species 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, orientations, and heights of proposed enhancement measures by appropriate maps and plans; (d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development; (e) persons responsible for implementing the enhancement measures; (f) 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.
- 8) **Great Crested Newts:** No works that would affect the breeding / resting place of Great Crested Newts shall commence until the local planning authority has been provided with: (a) a licence issued by Natural England pursuant to Regulation 55 of the Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/ development to go ahead; or (b) evidence of site registration supplied by an individual registered to use a Great Crested Newt Low Impact Class Licence; or (c) a Great Crested Newt District Level Licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/ development to go ahead; or (d) a statement in writing from Natural England to the effect that it does not consider that the specified activity/development will require a licence.
- 9) **Trees:** The details submitted as part of the reserved matters shall include a detailed Arboricultural Report which takes into account Ramm Sanderson's Arboricultural Impact Assessment, Method Statement and Tree Protection Plan, dated November 2022 (RSE_5821_R1_V3_ARB). The

detailed Arboricultural Report shall include an explanation as to how the layout of the development has been designed to limit the impact on the existing vegetation features found on site. The development shall be carried out in accordance with the approved Arboricultural Report.

- 10) **External lighting:** The details to be submitted pursuant to the reserved matters shall include details of the external illumination of the site including the luminance and spread of light and the design and specification of the light fittings. The details shall include a lighting design scheme for biodiversity identifying those features on site that are particularly sensitive for bats and that are likely to cause disturbance along routes used for foraging; and indicate how and where external lighting will be installed, through the provision of appropriate lighting contour plans, drawings and technical specifications, to demonstrate that areas to be lit will not disturb or prevent bats using their territory. The illumination details shall be implemented in accordance with an agreed timetable and retained thereafter. There shall be no other lighting of the external areas of the site unless otherwise agreed in writing by the local planning authority.
- 11) **Construction Management Plan:** Prior to the commencement of the development, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall include: (a) a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works; (b) safe access routes into the site from the highway; (c) parking provision for vehicles of site operatives and visitors; (d) provision for loading and unloading of plant and materials; (e) details for storage of plant and materials; (f) details of wheel and underbody washing facilities; (g) measures to ensure the control of nuisances during construction works to avoid disturbance to neighbours; (h) a requirement that no waste materials should be burnt on the site, instead being removed by licensed waste contractors; (j) a requirement that no dust emissions should leave the boundary of the site; (k) measures to limit the duration of noisy activities and locating them away from the periphery of the site; (l) a requirement that works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays; if there is likelihood of a need to work outside these hours, or if there would be periods of excessive noise that would significantly impact on sensitive receptors, the Council's Environmental Health Team must be notified prior to the works commencing as soon as reasonably practicable; the developer is advised to consult nearby noise sensitive premises and may be advised to apply for a Prior Consent under Section 61 of the Control of Pollution Act 1974.

Care must be taken to prevent the pollution of ground and surface waters during construction works, including the location of any hazardous materials such as fuel from vehicles and equipment.

Where any soils that are known to be contaminated are being excavated or exposed, a site waste plan must be prepared in order to store, treat and

dispose of the materials in accordance with the waste duty of care. It is recommended that advice is sought from the Environment Agency on this matter. Where there is requirement for dewatering the site, the relevant consent must be sought from the Environment Agency. Where there is a requirement to obstruct or alter watercourses, a consent under section 23 of the Land Drainage Act must be obtained from Essex County Council.

- 12) **Archaeology:** No development, including any site clearance or groundworks of any kind, shall take place until the Appellant (or their agents, or the owner of the site or successors in title) has secured the implementation of a programme of archaeological work from an accredited archaeological contractor. This work shall be in accordance with an archaeological written scheme of investigation, which has been previously submitted to and approved in writing by the local planning authority. The development shall be carried out in a manner that accommodates the approved programme of archaeological work.
- 13) **Contamination:** No development shall take place, other than demolition and site clearance, until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The risk assessment shall assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include: (a) a survey of extent, scale and nature of contamination; (b) an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; (c) an appraisal of remedial options, and identification of the preferred options. This must be conducted by a competent person and in accordance with the Environment Agency's 'Land Contamination Risk Management' guidance and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers'.
- 14) **Contamination – remediation:** Where identified as necessary in accordance with the requirements of the previous condition, no development shall take place until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The remediation scheme must be carried out as approved. The remediation scheme shall 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. The remediation scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The remediation 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 to be 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 must 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.

Any contamination found during the construction of the approved development not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to the local planning authority for approval in writing. These approved schemes shall be carried out before development is resumed. Following completion of measures identified in the approved remediation scheme, a verification report demonstrating the effectiveness of the remediation scheme carried out must be submitted to the local planning authority for approval in writing.

- 15) **Surface water drainage:** No works 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 should include but not be limited to: (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 accordance with BRE 365 testing procedure and the infiltration testing methods found in Chapter 25.3 of The CIRIA SuDS Manual (C753); (b) limiting discharge rates to 16.9 l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change 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 40% climate change event; (d) measures to demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% 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); (g) detailed engineering drawings of each component of the drainage scheme; (h) a final drainage plan which details exceedance and conveyance routes, finished floor levels and ground levels, and location and sizing of any drainage features; (i) a written report summarising the final strategy and highlighting any minor changes to the approved strategy. The scheme shall be implemented prior to occupation of the development, and permanently maintained thereafter.

- 16) **Drainage maintenance:** Prior to occupation of the scheme, 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 in perpetuity shall be submitted to and agreed in writing by the local planning authority. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided. The appellant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the local planning authority.
- 17) **Foul water drainage:** Prior to the construction above damp-proof course, a scheme for on-site foul water drainage works, including connection point(s) and discharge rates to the public network, shall be submitted to and approved in writing by the local planning authority. The scheme (including the connection to mains drainage) shall be implemented as approved prior to the first occupation of any dwelling or building on the site.
- 18) **Car parking:** The details to be submitted pursuant to the reserved matters shall make provision for car parking for the residential element of the scheme in accordance with the Council's adopted parking standards. The parking areas shall be constructed, surfaced, laid out and made available for such purposes prior to the occupation of the residential development in accordance with the approved scheme and permanently retained as such thereafter.
- 19) **Cycle parking:** A scheme for cycle parking, to accord with the Council's adopted standards for cycle parking, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be provided prior to the occupation of the development hereby approved and retained thereafter permanently for that use.
- 20) **Highways – northern parcel:** Prior to the first occupation of the northern parcel of development, the access arrangements and off-site highway works, as shown in principle on DTA drawing no. 24012-02a, shall be fully implemented and retained as such for the life of the development. The details shall be submitted to and agreed in writing with the Highway Authority, including: provision of minimum visibility splays of 2.4m x 97m clear to ground level to the west; provision of minimum visibility splays of 2.4m x 53m clear to ground level to the east; provision of appropriate forward visibility splay clear to ground level; a bellmouth access with a 2m wide footway to the western side; provision for a 3.5m shared use pedestrian/cycleway entrance into the site from Steeple Road; provision of a pair dropped kerb crossing points, with tactile paving, across Lawlinge Road; extension of the 30mph speed limit to the north of the site entrance, with appropriate signing and lining as necessary, and gateway features.
- 21) **Highways – southern parcel:** Prior to the first occupation of the southern parcel of the development, the access arrangements and off-site highway works, as shown in principle on DTA drawing no. 24012-02-3a, shall be fully implemented, and retained as such for the life of the development. The details shall be submitted to and agreed in writing with

the Highway Authority, including: provision of minimum visibility splays of 2.4m x 51m clear to ground level to the west; provision of minimum visibility splays of 2.4m x 143m clear to ground level to the east; a bellmouth access with a 2m wide footway to the western side; provision for a 2m wide footway from the site to the junction with Beech Drive, with associated carriageway re-aligning as necessary; extension of the 30mph speed limit to the east of the site entrance, with appropriate signing and lining as necessary, and gateway features.

- 22) **Toucan Crossing:** A Toucan crossing across Steeple Road, as shown in principle on DTA drawing no.24012-02a, shall be provided prior to the occupation of the development. The crossing shall include all associated works, such as: resurfacing, lighting, tactile paving and signing and lining, and gateway features.
- 23) **Bus stops:** Prior to the first occupation of the southern parcel of the development, a scheme for the provision of two new bus stops on Burnham Road, located to the east of the proposed vehicular access shall be submitted to and approved in writing by the local planning authority. It shall include the following (compliant to Essex County Council's specification): a suitable 2m footway, either along the site frontage or internally within the site; provision of raised kerbs, pole and flag with timetable on the northern side of Burnham Road, for eastbound buses, with appropriate hardstanding as necessary; provision of shelter, raised kerbs, pole and flag with timetable on the southern side of Burnham Road, for westbound buses, with appropriate footway and hardstanding as necessary; provision of a pair of dropped kerb crossing points, with tactile paving, across Burnham Road. The approved scheme shall be fully implemented prior to the first occupation of the southern parcel of development.
- 24) **Dwelling mix:** The dwelling mix for the development hereby approved shall include 10% of the total dwellings within the development as bungalows and shall otherwise accord with the housing mix requirement set out within the Maldon District Local Housing Needs Assessment 2021.
- 25) **Building heights:** The height of the buildings submitted as part of the Reserved Matters shall not exceed 9 metres.
- 26) **Noise:** The details to be submitted pursuant to the reserved matters shall include an acoustic assessment that details the noise exposure at the facade of the residential dwellings and associated amenity spaces. The design and layout shall avoid, as far as practicable, noise levels above the guideline values in Table 4 of BS 8233:2014 (Guidance on Sound Insulation and Noise Reduction for Buildings) in habitable rooms and 55dB LAeq,16 hours for external amenity spaces. Details of mitigation shall include enhanced glazing and alternative ventilation strategies where the assessment indicates that the guideline levels cannot be met. The acoustic details and measures shall be implemented as approved in accordance with a timetable agreed by the local planning authority.
- 27) **Office Hub:** The office hub approved as part of this scheme shall only be used for office purposes as defined within Class E(g)(i) of the Schedule to

the Town and Country Planning Use Classes (Amendment) (England) Regulations 2020 (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) and for no other purpose.

- 28) **Waste Management:** The details to be submitted as part of the reserved matters shall include a Waste Management Plan, to include details of refuse storage. The Waste Management Plan shall be implemented as approved and permanently retained thereafter.
- 29) **Broadband:** A strategy to facilitate superfast broadband for future occupants of the residential buildings shall be submitted to and approved in writing by the local planning authority. The strategy shall seek to ensure that, upon occupation of a dwelling, 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. The above shall apply 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 and permanently retained thereafter.
- 30) **Interpretation board:** Details of the position, design, and content of the proposed interpretation board, relating to the pillbox and its historical context shall be submitted to and approved in writing by the local planning authority. The interpretation board shall be installed in accordance with an agreed timetable and thereafter be retained and maintained in accordance with the approved details.

End of schedule