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## Item No: 7.2

**Application:** 211788

**Applicant:** Marks Tey Ltd.

**Agent:** Mr Michael Ward, Strutt & Parker

**Proposal:** Development of the site for commercial, business and service (Class E c and g), general industrial (Class B2) and storage and distribution (Class B8) purposes with associated access, parking including provision for lost residents on-street parking and landscaping, including diversion of a public right of way, and off-site highway improvement to the Old Landon Road and its junction with the A120.

**Location:** Land west of 194 and east of 202 Old London Road Marks Tey, Colchester, Essex.

**Ward:** Marks Tey & Layer

**Officer:** Majid Harouni

**Recommendation:** Approval subject to conditions and section 106 legal agreement.

## **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because the application is classified as a major and objections have been received.

## **2.0 Synopsis**

- 2.1 The application is for full planning permission for the erection of four blocks to create 9 individual commercial units comprising industrial (Class E(c and g), B2 and B8) and provision for associated estate access, car parking, HGV parking, cycle shelter, refuse storage, residents parking, diversion of the existing PROW, landscaping, ecology mitigation, suds and off-site highway works under section 278 of the Highway Act.
- 2.2 The principle of the planning application, in delivering new commercial units in a sustainable location with predominantly industrial and employment-related uses is supported. The site is allocated in the adopted plan within the Site Allocations DPD (2010) as an existing employment site with a proposed allocation for extension to the east. Appropriate uses being set out in Development Policy DP5. Whilst the proposal involves a modest amount of office floor space, this is not considered to have a detrimental impact on the site's primary economic function in accordance with Core Strategy Policy CE1 (Centres and Employment Classification and Hierarchy) promotes economic development through the regeneration and intensification of previously developed land. Policy CE3 states that Employment Zones will accommodate business developments that are not suited to Mixed-Use Centres, including industry and warehousing.
- 2.3 The proposal is considered to introduce a well-designed and contextual building that would relate and enhance the adjoining existing commercial site (Anderson site) and contribute to local employment opportunities, vitality, and wider Colchester economy in accordance with Development policies DP1 and DP5 of the adopted local plan.
- 2.4 The proposed development is considered to have been designed to minimise the impact on neighbouring amenities and would not affect daylight, sunlight and privacy or outlook of neighbouring properties to an unacceptable extent. As such, the application is considered acceptable and in accordance with Development Policy DP1 (Design and Amenity) of the adopted local Plan.
- 2.5 The proposal is considered to be in a sustainable location and measures have been designed and incorporated into the scheme to address sustainable urban drainage, ecology, landscaping and noise issues in accordance with planning policies. The proposal would involve off-site highway improvement which would require a separate highways agreement under section 278 of the Highway Act with the Highway Authority, in this case, National Highways (Highway England).

2.6 Finally, the application includes a section 106 agreement with suitable planning obligations and financial contributions to mitigate the impacts of the development, thus the planning application is considered to be acceptable and in accordance with adopted planning policy, subject to the planning conditions and planning obligation listed.

2.7 The application is subsequently recommended for approval.

### **3.0 Site Description and context**

3.1 The application site is situated outside the defined settlement boundary of Marks Tey on the north side of Old London Road, between Nos.194 to 202 Old London Road from the south and bounded by the Railway line to the north. It also extends beyond the rear garden boundary of properties 192 and 190 Old London Road. The land comprises an irregular shaped vacant field that measures about 3.13 hectares and is relatively flat.

3.2 The Old London Road runs parallel with A12 and thus only the northern section of Old London Road is developed and consist of primarily a mix of established commercial and residential properties. The residential dwellings comprise bungalows and two-storey residential properties and the Anderson's commercial estate. Intermittently there are undeveloped gaps between properties along the northern section of Old London Road including the application site.

3.3 The application site shares the boundary along its northwest corner with the Anderson's Commercial Estate and is separated by a low-level gate, but no estate road currently continues into the application site.

3.4 The site currently has no vehicular access onto Old London Road and only Public Right of Way 144-15 runs along its western boundary. This PROW terminates at the site northern boundary due to the removal of the former footbridge over the main railway line.

3.5 To the east of the site are the playing fields associated with the Marks Tey Village Hall and beyond the railway track to the north is the heart of the residential settlement.

3.6 The application site is located within the countryside albeit sandwiched between Old London Road and the railway line. However, the site is not located in an isolated position, public transport and railway station are within a short walking distance.

### **4.0 Description of the proposal**

4.1 The application seeks planning permission for the following:

- Erection of four new detached buildings providing 12,517sqm of total employment floor area subdivided into 9 individual units.

Block	Units	B8 & B2 floor area m2	Ancillary office floor area sqm	Total Floor area sqm	Ridge height m
800	810	1,566	153	1,719	13.2
	820	1,180	144	1,324	
	830	690	144	834	
	840	1,386	153	1,539	
900	910	936	153	1089	13.2
	920	784	144	928	
	930	794	153	947	
1000	1	3,263	453	3,716	13.8
1100	1	0	421	421	8.35
Total	9	10,599	1,918	12,517	

- Provision for a new vehicular and pedestrian access from Old London Road, with the estate road to continue up to the site northwest boundary with the adjoining Anderson site.
- The blocks are designed to meet expected occupier requirements and maximise the flexibility of the space.
- Provision of 115 car and 8 HGV parking spaces (loading, unloading bays and turning) including 11 disabled spaces and provision for 10 motorbike parking and 28 under cover bicycle shelter spaces close to individual blocks. EV charging will be made available at 10% of the total car parking spaces across the site, equal to 12 EV charging stations.
- The units include ancillary office elements and block1000 includes loading docks and other ancillary space.
- With the proposed internal floor area, using recognised employment densities (Employment Density Guide 2015, HCA) for employment buildings, the proposed blocks have the potential to generate between 270 and 339 full-time equivalent jobs.
- Provision for diversion of the existing dead-end PROW from the western side of the site to the eastern boundary and creation of new pedestrian and cycle path to connect the application site via parish Council's land to provide the opportunity for new footpath and cycleway link to A120.
- Landscaping planting, hard landscape enhancements and suds drainage
- Provision for 7 on-site residents car parking spaces to offset the loss of on-street car parking on Old London Road.
- Erection of 3.5m close boarded acoustic fence along the south-eastern, southern and south-western boundary of the site.
- Off-site highway improvements to facilitate better HGV movements along the Old London Road and its junction with A120.

## **5.0 Land use allocation**

- 5.1 The site forms part of the wider Employment Zone identified in Colchester Borough Council's adopted Site Allocations DPD (2010). The site is listed as a Local Employment Zone (para.3.14) which includes the following comments:

Further development of the site will require:

- Contributions to assist with any junction improvements required by the Highways Agency/ECC and contributions towards public transport, cycling and walking links;
- A travel plan;
- Contributions to increase capacity of Copford Sewerage Treatment works;
- Retention of Hedgerows;
- Incorporation of SuDS scheme.

## **6.0 Relevant Planning History**

- 6.1 202373- Development of the site for commercial business and service purposes (within Class E and g) and business purposes (B2 and B8) with associated hard surfacing, access, and parking.

The application was withdrawn to address comments from local residents, Parish Council and Colchester Borough Council Officers.

## **7.0 Principal Policies**

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. Colchester's adopted Development Plan comprises the Core Strategy (adopted 2008, reviewed 2014), the Development Plan Policies (October 2010, reviewed 2014), the Site Allocations Plan (adopted 2010).

The National Planning Policy Framework (NPPF) must be considered in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. The following policies are most relevant to this application:

SD1 - Sustainable Development Locations

CE3 - Employment Zones

TA1 - Accessibility and Changing Travel Behaviour

TA2 - Walking and Cycling

TA3 - Public Transport

TA4 - Roads and Traffic

TA5 - Parking

ENV1 - Environment

ENV2 – Rural Community

ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity

DP2 Health Assessments

DP3 Planning Obligations and the Community Infrastructure Levy

DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses

DP17 Accessibility and Access

DP18 Transport Infrastructure Proposals

DP19 Parking Standards

DP20 Flood Risk and Management of Surface Water Drainage

DP25 Renewable Energy

- 7.4 Adopted Local Plan and Emerging Local Plan

Submission Colchester Borough Local Plan 2017-2033:

### **Overview**

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan was examined with hearing sessions in April 2021 and consultations undertaken on suggested modifications in late 2021. Consultation responses on the modifications were reported to the Inspector and his final report is now awaited imminently. Section 2 of the Plan may then be formally adopted. Section 2 policies must be assessed on a case-by-case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

Core Strategy Policy SD1 is fully superseded by policies SP5 and SP6 of Section 1 Local Plan. Policies SD1 and CE1 are partially superseded by policies SP4 and SP5 in relation to the overall housing and employment requirement figures. The remaining elements of policies SD1 and CE1 are relevant for decision-making purposes.

### **Adopted Section 1 Local Plan**

On 1st February 2021, Full Council resolved to adopt the modified Section 1 Local Plan in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004. The final version of the Adopted North Essex Authorities' Shared Strategic Section 1 Local Plan is on the council's website.

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. Section 2 of each plan contains policies and allocations addressing authority-specific issues.

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision-making purposes.

### **Emerging Section 2 Local Plan**

Paragraph 48 of the Framework states that decision-makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 completed hearing sessions in April. The final Inspector's report is awaited on Part 2 of the ELP. Section 1 of the plan is therefore considered to carry full statutory weight.

- 7.5 CBLP Section 2 Site specific Policy SS11: Marks Tey has been subject to modifications by Inspector to include the land to the east of the former Andersons Timber Yard site as a Local Employment Area (Policy SS11: Marks Tey) following modifications suggested by the Inspector as part of the Section 2 CBLP examination. This reinstated the application site as an employment allocation. The modified policy now reads:

Policy SS11: Marks Tey

“14.192 The site known as Anderson’s will be retained as a Local Employment Area having been reviewed as part of the Council’s evidence update on employment. Policy SS11: Marks Tey

Growth within the Marks Tey area will largely be guided by the following documents in addition to this Local Plan:

(i) The Marks Tey Neighbourhood Plan to be developed will provide flexibility, including the scope for the allocation of any small parcels of land for development to be considered in the Neighbourhood Plan at the appropriate time.

The Anderson’s site is allocated as a Local Economic Area as shown on the Policies Map. This policy should be read in conjunction with the generic Neighbourhood Planning policy SG8.”

7.6 Other Emerging Local Plan Policies that are relevant include the following:

SP1 Presumption in Favour of sustainable development

SP4 Providing for Employment and Retail

SP5 Infrastructure and Connectivity

SP6 Place Shaping Principles

SG1 Colchester’s Spatial Strategy

SG3 Economic Growth Provision

DM6 Economic Development in Rural Areas and Countryside

DM15 Design and Amenity

DM23 Flood Risk and Water Management

7.7 Appendix 1 contains additional information regarding the Emerging Local Plan policies superseded by the Emerging Local Plan.

7.8 Marks Tey Parish Council has produced a Neighbourhood Plan which is now at an advanced stage.

Following the submission of the Marks Tey Neighbourhood Plan to the Council, the Plan was published, from 22 February to 5 April 2021, inviting representations, in accordance with The Neighbourhood Planning (General) Regulation 2012 - Regulation 16.

An Inspector was appointed by Colchester Borough Council with the consent of Marks Tey Parish Council, to independently examine the Marks Tey Neighbourhood Plan and to prepare a report of the examination.

The Examiner’s Report which was issued on 29 October 2021 concluded that subject to modifications recommended by the examiner being made, the Marks Tey Neighbourhood Plan met the Basic Conditions set out in



legislation and should proceed to a referendum. A core objective of the plan states:

**Business and Employment.** Regenerating the main sites in the parish, particularly through environmental improvements including the London Road parade of retail businesses. **Also helping to turn the now closed Andersons timber merchants and surrounding area into a modern industrial area. (bold emphasis added).**

The NP contains a site specific policy as follows:

**“POLICY MT15 – ANDERSON EMPLOYMENT SITE AND FORMER BY-PASS NURSERIES SITE**

The Anderson Employment site shown on Map 6.10 is allocated for employment uses. Development is anticipated to come forward in 2028.

The following site-specific requirements apply:

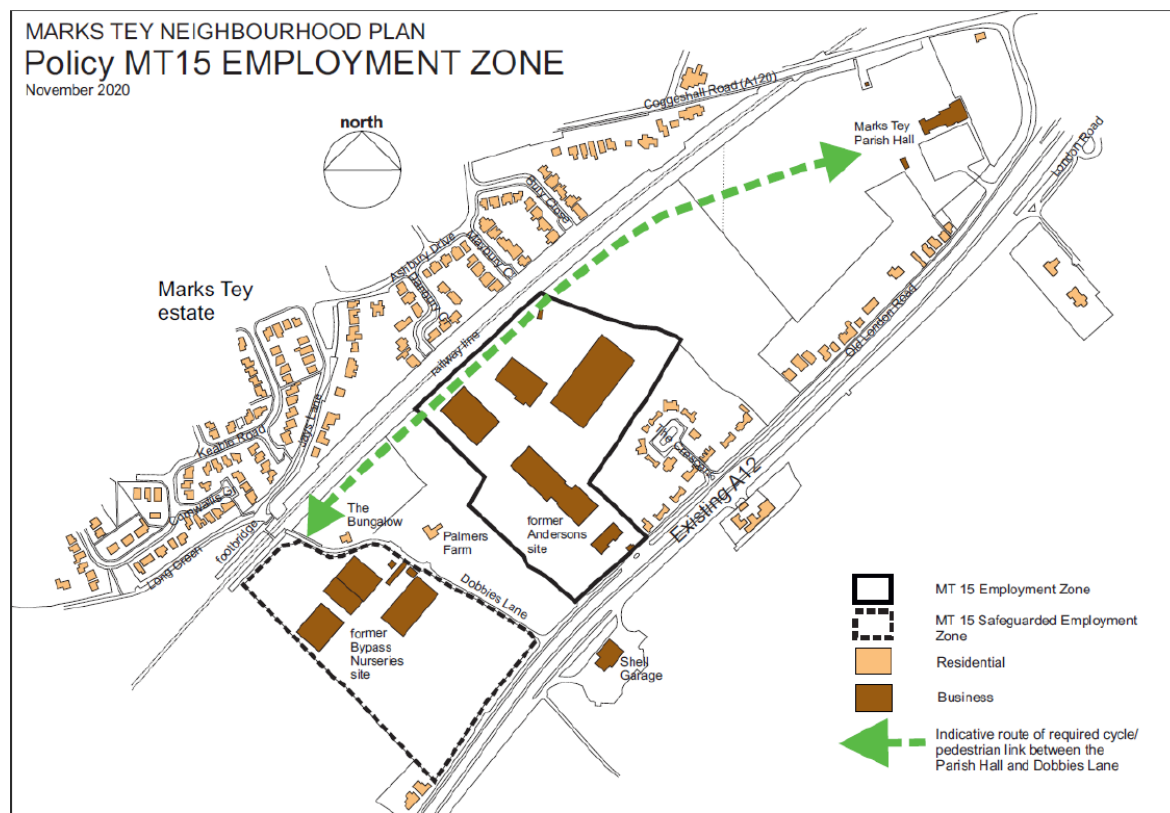
- all schemes must maintain or enhance residential amenity for neighbouring houses or for future occupiers of any new residential development;
- all schemes must incorporate a new pedestrian and cycle way connection providing a safe and attractive route from Marks Tey Parish Hall through to Dobbies Lane;
- access to and from the site is via an improved direct access on to the A12 and once the planned improvements to the A12 by Highways England have been implemented and the adjacent existing road has been detrunked; and
- provision of a work-place travel plan in line with Essex County Council guidance

Subject to any scheme not prejudicing the primary function of the site as employment sites, limited residential development will be allowed where this is needed to make redevelopment of this site viable.

The adjacent former By-Pass Nurseries site shown on Map 6.10 is safeguarded for employment use subject to those uses being consistent with the existing edge of settlement rural location. All schemes must maintain or enhance residential amenity and landscape character.”

it is considered the Draft NP is relevant and can be given some weight given its advanced stage, pending the referendum on the plan which has yet to be formally made. The examiner modified the policy to include the current application site within the allocation (see below and in the report section titled ‘Principle of Development’. In essence this modification was required to reflect the current allocation in the adopted and emerging Section 2 CBLP 2017-2033 (Policy SS11: Marks Tey).

The plan below is an extract from the Marks Tey NP policy which has since been updated to include the application site to the immediate east of the former Anderson's site.



Map 6.10 - Policy MT15 – Anderson employment site and former by-pass nurseries site

As a direct consequence of this modification to the CBLP Section 2 Policy SS11, the Marks Tey Neighbourhood Plan examiner suggested that the MTNP policy MT15 should also be modified to include the current application site as part of the policy allocation to achieve conformity with the current adopted site allocation in the adopted LDF Site Allocation DPD as a Local Employment Site and the Section 2 CBLP Local Economic Area allocation in the modified Policy SS11: Marks Tey. The application site is thus allocated for employment purposes in the current adopted local plan, emerging CBLP and the Marks Tey Neighbourhood Plan and the principle of employment use on the application site is in conformity with all of these documents. The MTNP has yet to undergo referendum in March 2022.

7.9 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

- The Essex Design Guide
- External Materials in New Developments
- EPOA Vehicle Parking Standards
- Sustainable Construction
- Cycling Delivery

- Sustainable Drainage Systems Design Guide
- Managing Archaeology in Development
- Developing a Landscape for the Future
- ECC's Development & Public Rights of Way
- Planning Out Crime
- Air Quality Management Guidance Note, Areas & Order

## **8.0 Consultation**

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below: More information may be set out on our website.

### Highway Authority (National Highways – formerly Highway England)

- 8.2 Given the fact there have been no reported incidents on Old London Road, in the last five years and the development is only adding a small number of vehicles in the peak hours and a total of 360 total vehicles (96 HGV's) spread throughout the day. The developer has also produced a risk assessment which states the increase in risk is acceptable without the alterations to the parking.

Highway England in their response of 22/10/2021 raised no objection subject to the following:

- 1- Before any development on planning application 211788 commences the developer shall have submitted and approved in writing by the local planning authority in consultation with Highways England the following design details relating to the required improvements to Old London Road, including a new access to the site, and the easing of the radius kerb at the junction between the Old London Road and the A120, as shown in outline on Link Engineering Drawing number MTS-LE-GEN-XX-DR-CE-001 Rev A dated 13<sup>th</sup> May 2021 and MTS-LE-GEN-XX-DR-CE-010 Rev A dated 6<sup>th</sup> May 2021.

Scheme details shall include drawings and Documents showing:

- i- How the improvement interfaces with the existing highway alignment and carriageway markings including lane destinations.
- ii- Full construction details relating to the highway improvement. This should include any modifications to existing structures or proposed structures with supporting analysis.
- iii- Full Signing and lighting details.
- iv- Confirmation of compliance with Departmental standards (DMRB) and policies (or approved relaxations/departures from standards).

- v- Evidence that the scheme is fully deliverable within the land in control of either the applicant or the Highway Authority.
- vi- An independent stage 2 Road Safety Audit (taking account of and stage 1 Road Safety Audit recommendations carried out in accordance with Departmental Standards (DMRB) and Advice Notes.
- vii- A construction Management Plan detailing how construction traffic will be managed.
- viii- An equality impact assessment.

In addition, the recommendations contained in AECOM Technical Note 'DX117TN03 ISSUED' must be addressed as part of the development of the design.

- 2- The above scheme approved by the Local Planning Authority shall be implemented and completed to the satisfaction of the Local Planning Authority in consultation with the Highways Authorities and NO beneficial occupation shall take place unless and until the junction improvements shown in outline on Link Engineering Drawing numbers MTS-LE-GEN-XX-DR-CE-001 Rev A and MTS-LE-GEN-XX-DR-CE-010 Rev A, have been delivered and are fully operational.
- 3- The total floor areas of the development shall not exceed a Gross Floor Area of 12,517sqm comprising a mix of E (c&g), B2 and B8 floor space.
- 4- No part of the development hereby approved shall be brought into use unless and until the travel Plan has been approved in writing by the Local Planning Authority who shall consult with Essex County Council as Highway Authority.

The Travel Plan shall be in line with prevailing policy and best practice and shall as a minimum include:-

- The identification of targets for trip reduction and modal shift
- The methods employed to meet these targets
- The mechanisms for monitoring and review
- The mechanisms and review
- The penalties to be applied in the events that targets are not met
- The mechanisms for mitigation
- Implementation of the travel plan to an agreed timescale or timetable and its operation thereafter
- Mechanisms to secure variation to the Travel Plan following monitoring and reviews

Whilst not a condition of the grant of permission, the developer should, in conjunction with National Highways, make every endeavour to close the existing substandard access between Old London Road and the A12 known as the Anderson Gap.

Reason: To ensure that the A12 and A120 trunk roads continue to serve their purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, and to satisfy the reasonable requirements of road safety.

A travel plan is required to encourage sustainable travel behaviour to and from the proposed development in accordance with national planning policy to encourage sustainable travel and to ensure that the A12 continue to serve its purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, to satisfy the reasonable requirements of road safety.

### **Highways Act Section 175B**

In accordance with Section 175(b) of the Highways Act 1980 (as inserted by The Infrastructure Act 2015) National Highways consents/does not consent to the formation of an access on to the Old London Road. This consent is valid only for application 211788 and to the layouts shown on drawing numbers MT2-LE-GENXX-DR-CE-001 Rev A MT2-LE-GEN-XX-DR-CE-010 Rev A.

- 8.3 On 25/11/2021 revised comments were received from Highways England asking for a delay in determination of this application until 6/05/2022 to enable Highways England to undertake assessment for Traffic Regulation Order along, Old London Road.
- 8.4 On 15/12/2021 further representation were received from Highways England and stating that:

“Further to our previous holding response, further information has been submitted by the applicant and discussion held with Borough and County Council. We have reconsidered the likely highway impact of this development and have concluded that it is unlikely the proposal would lead to a road safety problem or a severe impact in capacity terms. It is recognised that whilst there is no guarantee that the major upgrade of the A12 being upgraded at this location. Plans are at an advanced stage and it is programmed for works to commence in 2023-2024 and that will remove all through traffic from Old London Road. Therefore, we recommend the following conditions are imposed upon any permission granted.”

The revised comments lifted Highways England previous holding objection and recommended approval subject to the same terms and conditions as Highways England response of 22/10/2021 mentioned above.

#### Essex County Highway Officer

- 8.5 From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following requirement:
1. No occupation of the development shall take place until the following have been provided or completed:
    - a) Improvements to Footpath 15 Marks Tey (details shall be agreed with the Local Planning Authority prior to commencement of the development)
    - b) A travel plan in accordance with Essex County Council guidance

**Reason:** To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with Policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

#### Notes:

- The above requirement should be imposed by way of negative planning conditions or planning obligation agreements as appropriate
- Prior to any works taking place in the highway, the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

#### Archaeology Officer

- 8.6 A programme of predetermination archaeological trial trenching was carried out by the applicant's archaeologists in 2017. Several archaeological features were identified, but the evaluation was only half completed, due to ecological constraints.

Despite the evaluation being incomplete, more information is now available regarding the archaeological resource on-site than before. The limited number of archaeologically significant features identified suggests that the presence of highly significant archaeology (worthy of preservation in situ) on the proposed development site is highly unlikely.

The evaluation should be completed, but this can take place as a condition on consent – sufficient archaeological information is available for the planning application to be determined.

There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 205), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

The following archaeological condition is recommended:

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post-investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post-investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled *Managing Archaeology in Development* (2015).

Informative:

The applicant should request a new archaeological brief from CBC – the old WSI is no longer sufficient.

### SuDs

- 8.7 Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission.

We also have the following advisory comments:

We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below.

<https://www.essex.gov.uk/protecting-environment>

### Natural England

- 8.8 No comments to make

### Ecology Consultant

- 8.9 No objection subject to securing ecological mitigation and enhancement measures.

### Summary

We have reviewed the Ecological Impact Assessment (EclA) for this site (Ramboll, June 2021) and the letter relating to reptile mitigation strategy and method statement (Brindle & Green, Oct 2021) relating to the likely impacts of development on protected & Priority species and habitats and the identification of proportionate mitigation.

We are satisfied that there is sufficient ecological information to support determination of this application.

This provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

We note that the application site supports species including foraging and commuting bats, reptiles, breeding birds and invertebrates. However, although suitable aquatic habitat for Gt crested newt (GCN) exists within the site boundary, eDNA results from 2021 were negative and we support the statement that other protected species were scoped out from further surveys. The site has therefore been assessed as of ecological importance up to Local Level.

We are satisfied that mitigation measures to reduce impacts on habitats and protected species have been outlined and support the recommendation of securing these through the implementation of a Construction Environmental Management Plan (CEMP) for biodiversity. This would need to include the



appropriate timing of vegetation clearance works to avoid impacts on nesting birds and the implementation of root protection zones around trees to be retained.

**Bats:**

We note that the trees on the site are considered to have negligible potential to support roosting bats and that the bat activity surveys have informed the mitigation measures. However, the lux contours on the submitted External Lighting layout Rev P002 (Johns Slater and Haward, June 2021) indicate that there will be light spillage onto the boundary vegetation. This is in conflict with the EclA which states that a wildlife-sensitive lighting strategy will be designed in consultation with a bat ecologist to ensure the site remains suitable for use by foraging and commuting bats. This strategy would control lighting on site so as to avoid unnecessary illumination of bat foraging and commuting habitat. Specifically, this strategy should mandate that the illumination of boundary features should be minimised so as to conserve their integrity for use by bats.

**We therefore recommend that an updated wildlife sensitive lighting strategy is secured by a condition of any consent so that it is also designed to encourage roosting bats to occupy the site in the boxes proposed.**

**Reptiles:**

We also note that the reptile surveys were carried out during the optimal survey period during 2019 and that the application site supports a 'Good' population of both slow worm and common lizard. We are satisfied that the submitted reptile mitigation strategy and method statement is likely to be appropriate with translocation of these protected species within the red line boundary. However, we highlight that further reptile surveys may be needed to inform the final mitigation strategy as the 2019 survey results are already considered to be out of date in line with CIEEM advice on the lifespan of ecological reports and surveys (2019).

**We recommend that a final reptile mitigation strategy is therefore secured as a condition of any consent as well as a long-term Landscape and Ecological Management Plan (LEMP) for the reptile receptor site.**

We therefore recommend that the mitigation measures identified in the Ecological Impact Assessment (EclA) for this site (Ramboll, June 2021) and the updated version of the Reptile Mitigation Strategy and Method Statement (Brindle & Green, Oct 2021) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats and reptiles.

This is necessary to provide the LPA with certainty of likely impacts on protected species and that appropriate mitigation can be secured either by a condition of any consent or a mitigation licence from Natural England.

#### Biodiversity Net Gain:

We welcome the provision and retention of bird and bat boxes and the use of native plant species or species with a known value to wildlife as biodiversity enhancements. However, we would also expect to have a Biodiversity Net Gain (BNG) design stage report to demonstrate how the development will deliver net gain for biodiversity as required by NPPF (2021). We advise that it is not possible to require any specific % until secondary legislation is enacted to deliver mandatory BNG as described in the Environment Act 2021. As there is no detail on whether habitats on-site would be adequately compensated or not to support net gain,

**We recommend that a Biodiversity Enhancement Strategy is secured by a condition for any consent.**

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 as updated by the Environment Act 2021. Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

**We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.**

#### Recommended conditions

#### **1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS**

“All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (EclA) for this site (Ramboll, June 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. 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.”

Reason: To conserve and enhance 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 (Priority habitats & species).

#### **2. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY**

“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 shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details unless otherwise agreed in writing by the local planning authority”

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 (Priority habitats & species) as updated by the Environment Act 2021.

### **3. PRIOR TO COMMENCEMENT: FINAL REPTILE MITIGATION STRATEGY AND METHOD STATEMENT**

“No development shall take place (including any demolition, ground works, site clearance) until a final Reptile Mitigation Strategy and Method Statement based on a review of the population estimate surveys has been submitted to and approved in writing by the local planning authority,

The content of the method statement shall include the following:

- a) purpose and objectives for the proposed works;
- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) extent and location of proposed works shown on appropriate scale maps and plans;

- d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) persons responsible for implementing the works;
- f) initial aftercare and long-term maintenance (where relevant);
- g) disposal of any wastes arising from works.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.”

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), s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2020 and s17 Crime & Disorder Act 1998.

#### **4. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: 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 to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation;
- 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 prior to occupation and shall be retained in that manner thereafter.”

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

## **5. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME**

“A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall be based on identifying those features on-site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. 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 (Priority habitats & species)

## **6. PRIOR TO OCCUPATION: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN**

“A Landscape and Ecological Management Plan(LEMP) for the reptile receptor site shall be submitted to, and be 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 the implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the

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

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 (Priority habitats & species) as updated by the Environment Act 2021.

#### Landscape Officer

- 8.10 The submitted landscaping is not satisfactory and the following condition is recommended:

Landscape management plan Bespoke:

No works shall take place above ground floor slab level until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Finished levels or contours, where notable changes are proposed.
- Hard surfacing materials.
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform)
- Retained historic landscape features and any proposals for restoration.
- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated).
- Make on-site sanctuary provision for reptiles'/wildlife mitigation.
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

Arboricultural Officer

- 8.11 No objection subject to conditions.

Urban Design Officer

- 8.12 No objection to the layout and form of the development.

Environmental Agency

- 8.13 No comments to make

Anglian Water

- 8.14 Anglian Water has advised that there are assets owned by them or those subject to an adoption agreement within or close to the development and that the site layout should accommodate these assets.

The foul drainage from this development is in the catchment of Copford Water Recycling Centre which currently does not have the capacity to treat the flows from the development site. Anglian Water is obligated to accept the foul flows and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should planning permission be granted.

The proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of surface water management.

Contaminated Land Officer

- 8.15 Should this application be approved; Environmental Protection would recommend inclusion of the following conditions:

ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

ZG3 - \*Validation Certificate\*

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 and as insufficient

information has been supplied by the applicant and Environmental Protection wish to ensure that development only proceeds if it is safe to do so.

#### Environmental Protection Officer

- 8.16 Should planning permission be granted Environmental Protection recommends the following conditions:

#### **Construction Method Statement**

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control noise;
- measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

#### **Limits to Hours of Work**

No demolition or construction work shall take outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

#### **EV Charging points**



The development should provide EV charging point infrastructure to encourage the use of ultra-low emission vehicles at the rate of 1 charging point per 10 spaces.

## **Noise**

The accompanying acoustic report has concluded that there will be no impact on current noise levels from traffic and the general operation of the site, including deliveries and HGV movements, owing to the high ambient noise levels that currently exist and taking into account the proposed mitigation from the 3.5-metre-high acoustic barriers. However, the following condition is recommended to cover any potential impact of noise from external plant, machinery or equipment:

### **Site Boundary Noise Levels (external plant, machinery or equipment)**

Prior to the first use or occupation of the development, as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

## **Acoustic barriers**

The 3.5 metres high, high-density acoustic barriers shown on the submitted plans shall be erected prior to first use. Installation shall be overseen by a competent person. Details of long-term maintenance of the barriers shall be submitted to Colchester Borough Council for approval.

## **Unit 1110**

This unit is located very close to a dwelling house and has the potential to impact its amenity from deliveries and general operation. We, therefore, recommend the following conditions:

### **Restriction of Hours of Operation**

The use hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Weekdays: 07:00-21:00

Saturdays: 07:00-21:00

Sundays and Public Holidays: 10:00-16:00

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

### **Restricted Hours of Delivery**

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 07:00-21:00

Saturdays: 07:00-21:00

Sundays and Public Holidays: No deliveries.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

### **Industrial Processes (Control of Fumes, Odours, Dust etc. if applicable)**

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme devised by a competent person for the control of fumes, smells and odours, and dust that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. The control measures shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes, odours, dust, and smell in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

### **Light Pollution for Major Development**

Prior to the first OCCUPATION/USE of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 shall be submitted to, and agreed in writing by, the Local

Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein.

Note: Care should be taken to ensure luminaires are directed downwards or shielded to prevent glare and light-spill at all residential properties bordering the site.

Reason: In order to allow a more detailed technical consideration of the lighting at the site, as there is insufficient information submitted within the application to ensure adequate safeguarding of the amenity of nearby properties and prevent the undesirable, disruptive and disturbing effects of light pollution.

### **Surface Water Treatment**

(Note: For car parks containing 50 spaces or more, or discharging to a sensitive environment).

All surface water arising from the car park/s shall be treated in accordance with current Environment Agency guidance.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

### **Essex County Fire and Rescue Services**

- 8.17 In view of the above, due to what would be considered an excessive distance to the nearest existing statutory fire hydrant, No.10/3021 shown on the enclosed plan, it is considered necessary that should the development proceed, new fire hydrants are provided within the curtilage of the site. (*Officer Note: This matter will be addressed under Building Regulations*)

## **9.0 Marks Tey Parish Council**

- 9.1 At present this area is served by a narrow road unsuitable for HGV's that are unable to pass. This application would significantly increase all vehicle movements adding to the already poor air quality. With the impending changes to the A12 and Junction 25 Highways England has indicated that the proposed new road layout will further increase the traffic flow around the properties in Old London Road and will, with the positioning of the new roundabout, dissect the existing housing. We have put forward proposals to Highways England to provide direct access to the former Andersons site but Highways England has rejected these on the grounds of cost. As Bypass Nurseries are served by the same stretch of narrow road the same would apply to both sites.

In view of this, we are unable to support any further developments in this area until infrastructure improvements have been made and measures are taken to improve air quality in this and the surrounding areas.

## **10.0 Representations from Notified Parties**

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all representations received is available to view on the Council's Website. However, a summary of the material considerations is given below.

- At 8.35m high flank elevation, the proposed building near residential units will intrude into these properties and will represent an eyesore.
- The scale and height of the buildings are out of character.
- The chosen colour for the buildings closer to domestic residential properties is not appropriate.
- The buildings closer to residential properties should be sited further away from the shared boundary edge to reduce the impact on amenities.
- Our outlook will be altered from the countryside to tall buildings. This will harm our outlook.
- There should be a restriction on hours of activities to 8 am to 5 pm Monday to Friday.
- There should be a restriction on floodlighting to prevent light pollution and light intrusion into the amenities of the residents.
- A physical barrier should be installed to prevent access to A12 from the Anderson site and this application site.
- Old London Road is a residential road and not suitable for large commercial vehicles.
- There is no room for HGVs to pass each other. This will cause congestion on the road and restrict residents on-street parking.
- The Old London Road is an official cycle route and the proposal will impact cyclists unless there is a segregated cycle path.
- Noise from the new development and associated vehicular movement will impact the local resident's amenities.
- There is already congestion and accidents at the A12/A120 roundabout near the junction with Old London Road, this proposal will add to it.
- The proposal will give local residents very little benefits beyond increased pollution, congestion and even more on-street parking limitation within the surrounding.
- The residents' whole existence will be blighted in everything they do.
- The proposal will not enhance and increase the local infrastructure and will increase demand on-road system, adversely impact on road safety access and egress.
- The Traffic Assessment is misleading and omits vehicular movements current or planned for Anderson Site.
- Loss of on-street parking would mean residents park over ¼ mile away on the applicant's site and not visitor or delivery parking.
- The proposal will aggravate local air quality and impact the health and wellbeing of residents.
- The proposal will impact local wildlife.

## Colchester Cycle Campaign

- 10.2 Colchester Cycling Campaign objects to this plan. If it is considered for approval, mitigation should be carried out and completed at the same time as the development. If any work is outstanding it should be subject to a legal agreement and funded via a 20-year Section 106 or CIL agreement. See the table below for a list of mitigation measures.

Highways England should consider this scheme not as a standalone but as a major part of other recent planning applications in this area, which all add to motor traffic.

This particular application is disappointing in terms of provision for active travel: it is likely to increase dependence on short to medium-distance commuting by a car while further undermining cycling through increased traffic and greater danger, especially in Old London Road.

Note that paragraph 109 of the National Planning Policy Framework states that “development should only be prevented or refused ... if there would be an unacceptable impact on highway safety, or residual cumulative impacts on the road network would be severe”....

No estimate is given of the effect of increased motor traffic on cyclists in Old London Road, with the focus being on the ability of two heavy goods vehicles to pass each other.

While Old London Road falls within the remit of Highway England, it is not by nature a trunk road but a lightly trafficked mixed-use street. It should be subject to the design set out in the Manual for Streets (MfS) and not the Design Manual for Roads and Bridges.

Page 144 of Manual for Street states: "The DMRB is not an appropriate design standard for most streets, particularly those in lightly-trafficked residential and mixed-use areas."

The applicant's documents also make no mention of [Local Transport Note 1/20](#) on cycling infrastructure or the government's [Gear Change](#) document, which have been published for more than a year. These should have been used to shape the application.

Paragraph 3.4.5 of the transport assessment mentions the National Cycle Network routes 1 and 13. These are irrelevant when the site is so cut off for cyclists and is likely to be so for some time.

There is no indication of the type of cycle parking that the developer intends to provide, whether the security is sufficient and whether it is covered. The applicant seems to have ignored the requirement at 3.6.2 of the [Essex Parking Guide](#) that “cycle parking should be conveniently located adjacent to entrances to buildings”.

No comprehensive consideration of current or future air quality has been made.

## Local Member of Parliament Rt Hon Priti Patel

- 10.3 Has written in on behalf of her constituent, Mr Warner's concern about the scale of the development and its impact, as well as additional traffic and pollution on Old London Road.

In this letter, Rt Hon Priti Patel also refers to objections received from other local residents and asks that their comments be fully considered and also she be kept updated with the progress of the application, when a decision is likely to be made and if this is going to be determined by the Planning Committee.

### **Cllr Kevin Bentley CBC & Leader of Essex County Council**

- 10.4 As one of the local Members I can only support what Gerald and others are saying. When I use this junction to attend PC meetings you can take your life in your hands to emerge onto the A120. This would be bad future planning in my opinion and almost certainly against the Climate Change work of ECC.

### **11.0 Parking Provision**

- 11.1 The scheme proposes on-site car parking spaces and cycle parking
- Provision of 115 car and 8 HGV parking spaces (loading, unloading bays and turning) including 11 disabled spaces and provision for 10 motorbike parking and 28 bicycle shelters close to individual buildings.
  - Electric Charging stations for 10% of the total car parking spaces proposed, equal to 12 electric charging stations.
  - Provision for 7 on-site residents car parking spaces to offset the loss of on-street car parking to road widening/highway improvement.

### **12.0 Accessibility**

- 12.1 The development will be laid out to achieve accessibility for disabled occupants. All disabled car-parking bays are located as close to the main entrance as possible, with cycle shelters providing security and protection for bicycles. Safe pedestrian routes from these shelters will meet up with the route between the car park and the building.
- 12.2 All levels within the car parking areas will have a gradient of less than 1:25, enabling wheelchair access and ambulant disabled to access the site without difficulty.
- 12.3 All main entrances into the unit will be 'wheelchair friendly' level entry, with automatic or manual opening doors. The doors will meet all current Building Regulations Part M requirements, with full height tubular steel handles for ease of opening.
- 12.4 The reception area to the main office areas will be suitably sized to accommodate wheelchair users. Internal corridors will be a minimum of 1500mm wide at the pinch point. All doors will have a minimum clear opening of 800mm suitable for wheelchair access.

### **13.0 Open Space Provisions**

13.1 N/a

### **14.0 Environmental Protection (Air Quality)**

14.1 On the basis of the air quality impact assessment, there is no need for any further air quality mitigation other than the requirement for EV charging points and a residential travel plan.

### **15.0 Environmental and Carbon Implications**

15.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. Consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the Framework. It is considered that on balance the application represents sustainable development.

### **16.0 Planning Obligations**

16.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought. The Obligations that would be agreed upon as part of any planning permission would be:

- i- Footpath link to A120: Payment of £45k to Marks Tey Parish Council to delivery diversion of footpath 144-15 involving a 3.5m wide pedestrian and cycle path from the eastern boundary of the application over the Marks Tey Parish Council land towards the northeast to connect with the pavement of A120.
- ii- Archaeology contribution £14,400 toward museum-quality display cases, design and display material.
- iii- Contribution of £753 towards enhancement of the Colchester HER £348 to mitigate the information from the archaeological, if no archaeological remains are affected by the development.
- iv- Obligation: To provide 7 on-site car parking spaces in perpetuity for the benefit of the residents of Old London Road and as shown on drawing 18204 PO103 Revision J.
- v- Travel Plan Monitoring contribution: Payment of contribution of £6,132 toward monitoring of the Travel Plan by Sustainable Travel Planning Team.

### **17.0 Report**

### Principle of the Development

- 17.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the Town and Country Planning Act 1990 and Paragraph 47 of the National Planning Policy Framework require that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 17.2 Adopted Core Strategy Policy CE1 (Centres and Employment Classification and Hierarchy) promotes economic development through the regeneration and intensification of previously developed land and allocation of land necessary to support employment growth at sustainable locations. This Policy seeks to protect and enhance employment throughout the Borough and encourage economic diversity and business development to facilitate small and medium enterprises. A mix of business types and premises will be sought in employment developments to provide opportunities for all businesses and create diverse and successful economic environments.
- 17.3 Core Strategy Policy CE3 states that Employment Zones will accommodate business developments that are not suited to Mixed-Use Centres, including industry and warehousing. The supporting text to this policy goes on to state that Local Employment Zones will also be maintained to support small to medium scale enterprises, provision of incubator units and grow-on space to support the development of small and medium-sized businesses. The policy encourages rural businesses and local employment delivery. Policy DP5 of LDF (Appropriate Employment Uses and Protection of Employment Land and Existing Businesses) states that appropriate uses within designated employment zones will include (a) Business (B1), general industrial (B2), storage and distribution (B8). The site is allocated as a local employment site within the Site Allocations DPD (2010) and suitable uses are set out in Development Policy DP5. The proposals are in conformity with these relevant adopted policies.

The site forms part of the wider Employment Zone identified in the adopted Site Allocations DPD (2010). The site is listed as a Local Employment Zone (para.3.14) which includes the following comments:

Further development of the site will require:

- Contributions to assist with any junction improvements required by the Highways Agency/ECC and contributions towards public transport, cycling and walking links;
  - A travel plan;
  - Contributions to increase capacity of Copford Sewerage Treatment works;
  - Retention of Hedgerows;
  - Incorporation of SuDS scheme.
- 17.4 Policy SG4 of the emerging Section 2 emerging Colchester Borough Local Plan (CBLP) seeks to safeguard the Local Economic Areas in Colchester primarily for B Class uses to protect and enhance employment provision.



Local Economic Areas are listed in Table SG4 and include the former Andersons Timber Yard site.

The application site to the east of the Andersons site is also now allocated as a Local Employment Area (Policy SS11: Marks Tey) following modifications suggested by the Inspector as part of the Section 2 CBLP examination. This reinstated the application site as an employment allocation. The modified policy now reads:

**Policy SS11: Marks Tey**

“14.192 The site known as Anderson’s will be retained as a Local Employment Area having been reviewed as part of the Council’s evidence update on employment. Policy SS11: Marks Tey

Growth within the Marks Tey area will largely be guided by the following documents in addition to this Local Plan:

(i) The Marks Tey Neighbourhood Plan to be developed will provide flexibility, including the scope for the allocation of any small parcels of land for development to be considered in the Neighbourhood Plan at the appropriate time.

The Anderson’s site is allocated as a Local Economic Area as shown on the Policies Map. This policy should be read in conjunction with the generic Neighbourhood Planning policy SG8.”

As a direct consequence of this modification to the CBLP Section 2 Policy SS11, the Marks Tey Neighbourhood Plan examiner suggested that the MTNP policy MT15 should also be modified to include the current application site as part of the policy allocation to achieve conformity with the current adopted site allocation in the adopted LDF Site Allocation as a Local Employment Site and the Section 2 CBLP Local Economic Area allocation in the modified Policy SS11: Marks Tey. The application site is thus allocated for employment purposes in the current adopted local plan, emerging CBLP and the Marks Tey Neighbourhood Plan and the principle of employment use on the application site is in conformity with all of these documents. The MTNP has yet to undergo referendum in March 2022.

Para.11 c) of the Framework states that proposals that accord with an up-to-date development plan should be approved without delay.

- 17.5 In general terms paragraphs 80 to 82 of the NPPF seek to build a strong, competitive economy. This includes creating conditions where businesses can invest, expand and adopt. In addition, planning decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of SMEs and storage and distribution operations at a variety of scales in suitable and sustainable locations.
- 17.6 The Site Allocations DPD identifies the former Anderson Site and the land the subject of this application as a Local Employment Zone. Following modifications suggested by the Inspector as part of the Section 2 CBLP this

site allocation is now carried forward to the emerging local plan (Policy S11) which is at an advanced stage. Furthermore, the application site has now also been allocated in the Marks Tey Neighbourhood Plan for employment purposes. Given the advanced stage of the Marks Tey Neighbourhood Plan this allocation can be given some weight and reinforces the policy position of the application site in the adopted and emerging local plan.

- 17.7 While the proposal also includes office floor space in individual units, this would represent a small proportion of the overall proposed floorspace and the development would be industrially-led with the majority of floorspace in either B2, B8 or E(c&g) uses and as such the proposal would be wholly consistent with the above-mentioned policies and would provide investment in terms of delivering high-quality buildings both internally and externally and yield local employment opportunities. The proposed uses accord with emerging policy SG4 of the CBLP.
- 17.8 In the light of the above, it is considered that in land use terms, the proposed development to be acceptable in principle for (Class E (c and g), general industrial (Class B2) and storage and distribution (Class B8) uses is compatible with national and local plan policy. Furthermore, given the future local economic benefits and employment opportunities, the development will deliver, the application is supported subject to the assessment of design, amenity, ecology, landscape, suds and highway/transport impact. These matters are considered below.

#### Design, Appearance and Character

- 17.9 The NPPF confirms that the Government attaches great importance to the design of the built environment and notes that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. Core Strategy Policies ENV1, Local plan Policy DP1 and emerging local plan policy DM15 seek to optimise site potential through the design lead approach and are concerned with good quality and contextual design in all developments. These policies require new developments to respect and enhance the characteristics of the site, its context, and surroundings by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance, and shape of the development.
- 17.10 Adopted Development Policy DP1 point (i) states that development proposals must demonstrate that they and any ancillary activities associated with them will:
- i) Respect and enhance the character of the site, its context, and surroundings in terms of its architectural approach, height, size, scale, massing, density and proportions, materials....
  - ii) Provide a design and layout that takes into account the potential users of the site including giving priority to pedestrian, cycling and

public transport access and the provision of satisfactory access provision for disabled people and those with restricted mobility.

iii) Protect the existing public and residential amenities, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight.

iv) Create a safe and secure environment.

- 17.11 Essex design guide which has been adopted by the Council as an SPD also provides guidance for Commercial, Industrial and Large Footprint Buildings also provides guidelines and principles for good design, e.g., how buildings look and fit into their setting, the layout and arrangement public spaces and appearance of the development.
- 17.12 The proposed development has been refined through the pre-application process and discussion with officers and consultation as part of application 202373 (see planning history above). Specifically, the relocation of block 1000 further away from the southern boundary, reduction in its ridge height from 16.3m to 13.8m and replacement of units 1110, 1112 and 1113 with a total floor area of over 950sqm with a single block 1100 with a total floor area of 421sqm. Also, to offset the loss of on-street residents parking spaces, 7 parking spaces are proposed on the application site for use by local residents. These spaces would be secured in perpetuity by an obligation in the proposed s.106 agreement.
- 17.13 The blocks are designed as a propped portal to allow maximum flexibility in design based around the likely operational practicalities required by the future occupiers.
- 17.14 Each building is accessed from the spine road servicing all units from the Old London Road. Where possible ancillary offices have been orientated to address internal estate road creating a sense of arrival and opportunity for natural surveillances through secure by design.
- 17.15 As the table in section 4.1 above shows the development will provide a range of units to suit a range of market demands. The units range from a 690 sqm warehouse area with an ancillary 144sqm office floor area to the largest unit with a warehouse floor area of 3263sqm and ancillary office floor area of 453sqm.
- 17.16 The scale, height, massing, and location of the blocks in the context of their sitting and viewpoints receptors have been carefully considered to ensure minimum impact on the surrounding occupiers and wider landscape.
- 17.17 The closest proposed building blocks to the residential properties to the south are blocks 1000 and 1100. The height of block 1100 which is closest to the adjoining dwelling is very similar to the height of other two-storey houses along Old London Road and as such would relate well with its surroundings and it will be occupied for Class “E(c and g)” uses.

- 17.18 As regard block 1000, this building would be sited over 50m away from the curtilage of the closest houses and a minimum distance of 70m back-to-back. This building is to have a ridge height of 13.8m and an elevation of over 91m wide facing the houses. It is considered that although blocks 1000 and 1100 will be visible from the rear aspect of the houses to the south and east, given the overall height and distance, it is not considered their impact will be significant. In addition, new landscaping, and tree planting along the shared boundary with the houses would further assist and soften their visual impact in the long run.
- 17.19 All blocks in this development are coordinated to include the same cladding finishes and colours, such that the units read together as one cohesive development. Each block has been designed to create a contemporary simplistic aesthetic with high-quality material. The units will be broken up vertically with various elements and broken up horizontally with changes in cladding colours. Large curtain walls are proposed near the entrances and on frontages.
- 17.20 The overall impression of the scale of the building is much reduced through the definition of each block component. The careful articulation of the use of external finish materials helps to draw the eye away from the overall height and reduces the perception of scale.
- 17.21 In conclusion it is considered that the development to be a well-considered proposal that, while developing the site to its maximum capacity, is considered to sit comfortably within its context and provide for good quality contemporary industrial and commercial buildings and employment units.
- 17.22 The scheme design and architecture is considered consistent with relevant adopted local plan policies, Essex Design Guide and the NPPF as a result, the application is supported on design grounds.

#### Residential Amenity

- 17.23 The Development Plan contains policies which seek to appropriately safeguard the amenities of residential occupiers when considering new development. LDF Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. The emerging CBLP Section 2 policy DM15(v) requires all development including new buildings to be designed to a high standard, positively respond to its context..., protect and promote public and residential amenities, particularly with regards to privacy, overlooking, security, noise, and disturbance, pollution, (including light and odour pollution), day light and sunlight. In addition, the adopted Essex Design Guide (as SPD) also provides guidance on the protection of residential private amenities. Paragraph 130(d) and (f) of the NPPF says that Planning policies and decisions should ensure that developments:

- d) Establish or maintain a strong sense of place, using the arrangement of street spaces, building types and materials to create attractive, welcoming, and distinctive places to live, work and visit.
- f) Create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users ....

17.24 In this instance representations have been received from the local residents and the Parish Council regarding the potential adverse impact of the development on the amenities currently enjoyed. It is acknowledged that there are residential properties along the application site boundaries to the south, east and west. However, it must be noted that only block 1000 with its B8 use and associated individual service yards and loading bays which is the closest to residential properties would be at least 50m away from the curtilage boundary of the adjoining residential properties with an intervening area of landscape green buffer and fencing providing relief. This distance is considered sufficient to prevent the proposal from overlooking, or causing any detrimental level of overshadowing. It is not considered that the proposed block 1000 would have an overbearing impact given the intervening distance between it and the nearest properties and the fact that there is an area of green space inbetween.

It is acknowledged that block 1000 will have a considerable height and would therefore have more of a potential impact than a residential property, for example, but this has been taken into account and the impact is not considered to be detrimental. As regards block 1100, it is considered that this building would have an overall height similar to a two-storey house and will be used for Class E (c&g) which are uses acceptable in residential areas.

Overall, it is considered that none of these units will cause significant harm to the amenities of the occupiers of the residential properties. Moreover, to further mitigate any potential harm from the proposed uses and associated operations and construction activities; Environmental Protection has recommended restrictions on the hours of construction and operation of the units including deliveries to and from the site.

17.25 In addition, as stated in paragraphs 17.17 and 17.18 above, the orientation, height and distance of blocks 1000 and 1100 to the adjoining residential properties would be such that the proposal will not cause overlooking or significant impact on the outlook, sunlight and daylight of these properties.

17.26 On balance therefore it is considered the impact of the development upon the amenities of the local residents will be in compliance with the above-mentioned plan policies and the impacts acceptable in compliance with the policies identified.

#### Air Quality and Noise Impact

- 17.27 Concerns have been raised that the development will result in the generation of noise and harm local air quality. The application has been accompanied by noise and air quality reports which have been considered by the Environmental Protection team and no concerns have been raised subject to the recommended conditions.
- 17.28 With regard to air quality no concern has been raised subject to conditions regarding the provision of electric charging points (EVC), implementation of a travel plan and submission of a Construction Management Plan for approval by the Local Planning Authority prior to the commencement of development to ensure that dust and pollution during the construction phase are controlled.
- 17.29 With respect to the noise issue, the submitted noise assessment report considered that the key issue for the site is the access and HGV movements to and from the site. The report recommended the erection of a 3.5m high acoustic barrier along the site's southern boundary to address potential noise from the site. It is considered subject to the implementation of the acoustic barrier and restriction on the operating and delivery hours the noise impact would not be significant, as the adjoining residential properties affected are also more exposed to general background traffic noise from A12.
- 17.30 Overall, the Environmental Protection does not raise any significant concerns and therefore it is considered that the proposed development would result in any detrimental harm to local residents as a result of noise or air quality subject to implementation of the conditions suggested.

#### Ecology and Biodiversity

- 17.31 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. DPD Policy DP21 and Core Strategy Policy EV1 (vi) seek to conserve and enhance biodiversity. This is also reflected in paragraph 170 of the NPPF which at bullet point (B) suggests that recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services... and (d) minimising impact on and providing net gains for biodiversity,....
- 17.32 The applicant submitted a phase 1 Environmental assessment report and an ecological impact assessment report which has been assessed by the County ecologist. No formal objection is raised and recommended planning conditions relating to action required in accordance with ecological appraisal recommendations contained in the Ecological Impact Assessment (EclA) for this site (Ramboll, June 2021), Construction Environmental Management Plan for Biodiversity, Final Reptile Mitigation Strategy and Method Statement, Biodiversity Enhancement Strategy.

- 17.33 The applicant's proposed lighting scheme is considered to be inappropriate and detrimental to wildlife. To address this issue, it is recommended the proposed lighting scheme not be approved and a condition is imposed requiring submission of Wildlife Sensitive Lighting Design Scheme and Landscape and Ecological Management Plan (LEMP) for the reptile receptor site.
- 17.34 Subject to the above conditions to secure ecological enhancement measures, it is considered that the proposed development accords with adopted Policies ENV1 of the Core Strategy, DP21 of the local plan and the requirements of the NPPF which seek to minimise impacts on biodiversity and, where possible, to provide net gains for biodiversity.

#### Flooding Risk and Drainage

- 17.35 Adopted Development Policy DP20 (Flood risk and Management of Surface Water drainage) of the local plan requires all development proposals to incorporate measures for the conservation and sustainable use of water. These measures shall include an appropriate Sustainable Drainage System to minimise the risk of increased flooding both within the development boundary and off-site. The above policy also states that "The use of SuDS will be particularly important as part of greenfield developments to manage surface water run-off rates...". Also, Policy DM23 (Flood Risk and Water Management) of the emerging Local Plan states that "development proposals will be required to deliver or contribute to the delivery of flood defence/protection measures and/or flood mitigation measures to minimise the risk of increased flooding both within the development boundary and off-site in all flood zones and ensure that the development remains safe throughout the life of the development. This consideration is reiterated in the NPPF, which states that development should ensure that flood risk is not increased elsewhere.
- 17.36 The application site is situated within Flood Zone 1, which is defined as having little or no risk of flooding from rivers or streams. Such zones generally comprise land assessed as having a very low risk of flooding.
- 17.37 The applicant submitted a FRS report which has been examined by the Essex County Council Local Flood Authority. Concerns were raised initially and additional information was requested to fully assess the proposal. Additional information and drainage strategy were subsequently submitted by the applicant to address the raised concerns. Upon further assessment of the information provided, County Local Flood Authority removed their objection subject to the implementation of the surface water drainage as approved and an informative.
- 17.38 The Environment Agency has also not objected to this application subject to a condition to ensure the development does not have an impact on water quality.

- 17.39 Anglian Water notes that foul drainage from this development is in the catchment of Copford Water Recycling Centre which currently does not have the capacity to treat the flows the development site. Anglian Water however states that they are obligated to accept the foul flows from the development with the benefit of planning permission and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission. No objection has been received from Anglian Water to this development.
- 17.40 The proposal as submitted is therefore considered acceptable and in compliance with the local plan policies and the NPPF and will not create any enhanced flood risk.

#### Highway and Transportation Matters

- 17.41 Adopted CS Policies TA1 to TA4 seek to improve accessibility and change travel behaviour. CS Policy PR2 requires development proposals to create secure attractive, safe and people-friendly streets. The Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 17.42 The application has been accompanied by a Transport Statement and a Stage 1 Highway Safety Audit report. The proposal would involve the creation of a new vehicular and pedestrian access onto the Old London Road. Although it is noted that the Old London Road has limited street lighting and as a result is not well lit; it benefits from a footway along its northern side that joins the A120 (Coggeshall Road) to the northeast of the site. The site, therefore, benefits from pedestrian and cycle connectivity and can access the public transport facilities in Marks Tey. Furthermore, the A12 benefits from a segregated footway/cycleway which runs parallel along the eastbound carriageway.
- 17.43 The closest bus stop is located approximately 600m northeast of the site adjacent to the junction of Old London Road with A120. Marks Tey Railway Station is located approximately 1km northeast of the site.
- 17.44 The proposal would involve the diversion of the existing dead-end PROW footpath 144-15 and the creation of a 3.5m wide pedestrian and cycle path from the eastern boundary of the application over the Marks Tey Parish Council land towards the northeast to connect with A120 to facilitate easier connection to public transport. This is in conformity with the requirements of the MTNP site specific policy and would be secured via a contribution of £45k in the s.106 agreement. The exact route and details of this cycle and footpath diversion have not been finalised, although the applicant has agreed to pay the contribution to the Parish Council towards its construction and upkeep.
- 17.45 To ensure that the proposed site access and its associated sightlines and the industrial estate internal road can accommodate HGV movements the



applicant has carried out a satisfactory HGV tracking as shown in drawing MT2-LE-GEN-XX-DR-CE-001 Rev B to ensure that the proposed layout would be satisfactory and would not cause harm to highway safety.

17.46 The proposal would involve off-site highway works under section 278 of the Highway Act comprising improvements to the Old London Road and its junction with the A120 to facilitate better HGV movements. These highway works would consist of the following:

- New pedestrian and vehicular access onto the Old London Road (drawing MT2-LE-GEN-XX-DR-CE-001 Rev B);
- Changes to on-street parking arrangements on the Old London Road (drawing MT2-LE-GEN-XX-DR-CE-001 Rev B); and
- The improvements include widening of the Old London Road and realignment of the bend as it turns towards the A120. This is to provide a more compliant route for the passage of HGVs and other vehicles.
- To rationalise the existing on-street parking bays along the Old London Road into two sections allowing HGVs to pass each other safely alongside other road users.
- Improvements work to the Old London Road junction with A120 involving changes to the curb line in order to accommodate HGVs. (drawing MT2- LE-GEN-XX-DR-CE-010 Rev A.

17.47 The above highway improvements have been discussed at length with National Highways (Highways England) who is the Highway Authority in this location. Highways England in their final response of 15/12/2021 raised no objection, subject to the conditions as set out in paragraph 8.2 above in this report.

17.48 A Travel Plan has been submitted with this application and sets out proposals to encourage alternative modes of transport to the car. Notwithstanding the travel plan submitted Highways England has asked for a condition to be imposed to require the submission of a more detailed travel plan to promote sustainable travel as part of the sales package, and subsequently once the site is occupied. The Travel Plan would need to be monitored for a period of five years. If the application were to be approved, this and monitoring contribution would be secured as part of a section 106 agreement.

17.49 Although both the County Highway Authority and Highways England have considered the impacts of the proposal on the road network, as well as the highway safety. Neither has objected to the application. Whilst the concerns expressed in respect of the potential impact of vehicular traffic are appreciated, it is important to note that the Framework advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In the light of the submitted evidence and, given the fact that the responsible highway authority (Highways England in this case) have not raised any objection to

this application subject to appropriate conditions and highway works, it is considered that a refusal on the highway ground cannot be substantiated. The application site is also located in an accessible location that accords with the requirements set in the Framework and adopted local planning policies. Whilst it is noted that both the adopted local plan and emerging MTNP (MT15) site specific policies refer to access to and from the site to be via an improved direct access on to the A12, this cannot be achieved and is not a requirement supported by the highway authority.

### Parking

17.50 CS Policy TA5 refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people-friendly street environments. DPD Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which was adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009.

17.51 The Vehicle Parking Standards provides guidelines on car parking standards for new developments. This set out the following standards:

- B1 – Offices: 1 space per 30m<sup>2</sup>
- B2 – General Industry: 1 space per 50m<sup>2</sup>
- B8 – Warehousing: 1 space per 150m<sup>2</sup>

The parking provision for commercial development is based on maximum standards.

17.52 The proposed development has made on-site car parking provision for 115 spaces including 11 disabled spaces, 10 motorcycle parking spaces, 28 covered bicycle spaces and 8 HGV parking bays. In addition, the proposal would provide 7 on-site car parking spaces for the local residents to offset the loss of on-street car parking spaces that will result due to off-site highway improvement.

17.53 As part of the sustainability programme the proposal will ensure that 10% of the total car parking spaces will provide Electric charging points (EVC). This will be secured by a planning condition.

17.54 Given the above, the proposed parking provision is considered to accord with the requirements of Policy DP19 of the local plan, TA5 of the CS and the adopted parking standards.

17.55 A number of concerns have been raised regarding highway safety issues by the local residents and the Parish Council and all these matters have been considered by the Highways England and Essex County Council Highway Authority and covered in this report. In the light of the available evidence and, given the fact that the responsible Highway Authority (the Highways England) has not raised an objection to this application, it is considered that a refusal on the highway cannot be substantiated. In view of the above, the

proposal is considered acceptable in terms of transport/ highways subject to appropriate planning conditions and S106 contributions.

#### Contamination

- 17.56 DPP Policy DP1 requires all development to avoid unacceptable environmental impacts; part (vi) requires the appropriate remediation of contaminated land.
- 17.57 A contamination report has been submitted in support of the application. This report assumes a continued use on the site and therefore does not specifically assess the contamination risks for the proposed redevelopment. Moreover, the site visit was limited to the exterior areas only. Both the Environment Agency and the Council's Contaminated Land Officer have recommended that a further application-specific assessment of potential risks be undertaken. Whilst further assessment is required, the Contaminated Land Officer has advised that, based on the information provided, it would appear that this site can be made suitable for the proposed use, with contamination matters dealt with by way of planning conditions.
- 17.58 It is also noted that the submitted report does not include any survey of potentially asbestos-containing materials (ACM). The applicant has a duty and responsibility under the Control of Asbestos Regulations 2012 with respect to asbestos in existing buildings and an informative is proposed to remind the applicant of this duty.

#### Archaeology

- 17.59 The site falls within an area which has previously been the subject of archaeological investigation. Despite the evaluation being incomplete, more information is now available regarding the archaeological resource on-site than before. The limited number of archaeologically significant features identified suggests that the presence of highly significant archaeology (worthy of preservation in situ) on the proposed development site is highly unlikely. The Council Archaeological Advisor does not raise any objections to the proposal subject to conditions for a programme of archaeological works to be carried out no objection is raised.

#### Landscaping and visual impact

- 17.60 The site is flat and enclosed by existing boundary hedges and scattered trees across the site. The applicant has submitted a tree report, a landscaping scheme as well as a visual assessment. These have been assessed and although there is no objection to the tree report submitted, the removal of several trees will increase the visibility of the site. There are concerns about the adequacy and benefits of the landscaping scheme submitted.
- 17.61 It is considered that the development of such a major scale and physical extent on what is currently a greenfield site- albeit one where is allocated for

employment purposes, will give rise to substantial effects on the local landscape and views across the surrounding areas. It is felt that the submitted landscaping scheme would not deliver the degree of visual mitigation and screening along the site boundaries and it does adequately integrate SuDs mitigation with the on-site ecology issues with the wider site's landscaping. To address these issues and to reduce the impact of the development a more suitable landscaping and appropriate tree planting together with a long term management and maintenance scheme should be submitted. It is therefore recommended that an appropriately worded condition, as stated in paragraph 8.10 above, be imposed.

#### Environmental and Carbon Implications

- 17.62 CS Policy ER1 sets out the Council's commitment to carbon reduction through the promotion of efficient use of energy and resources, alongside waste minimisation and recycling. This Policy encourages Non-residential developments to achieve a minimum BREEAM rating of 'Very Good'.
- 17.63 New developments need to help address the challenges of climate change and sustainability, and therefore contribute positively towards the future of Colchester. In support of achieving sustainable development, the Council has committed to being carbon neutral by 2030. The Framework has at its heart the promotion of sustainable development. To achieve this aim, a condition is recommended requiring the new buildings to achieve a BREEAM rating of 'Very Good'.
- 17.64 Consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the Framework. It is considered that on balance the application represents sustainable development.

#### Other Matters:

##### Environmental Impact Assessment

- 17.65 Consideration has been given to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) given the size of the development and this development falling within the scope of a Schedule 2 development (Section 10(a)). In this instance, in the context of guidance within the National Planning Practice Guidance, it is not considered that the development would result in any impacts of more than local significance. Accordingly, the Local Planning Authority does not consider that an Environmental Impact Assessment needs to be submitted in support of the application.
- 17.66 Development Plan Policy DP2 requires all development to be designed to help promote healthy lifestyles and avoid causing adverse impacts on public health, with Health Impact Assessments (HIA) being required for residential development in excess of 50 units and non-residential development in excess of 1,000sqm. Whilst the scheme meets this criterion an HIA has not been submitted. The relevant individual health impacts (including Noise, Air

Quality, and Active Travel) have all been considered individually as part of each relevant themed supporting report. It is considered that these matters have been afforded appropriate consideration.

- 17.67 The application has been the subject of extensive negotiation with officers including environmental protection officers and as a result, the proposals have been substantially amended to address the areas concerning the impact on amenities, provision of access and parking for the disabled and also through the recommended planning conditions which minimise any adverse impact on the health and wellbeing of the local residents. On balance, the proposal is considered to be acceptable in relation to policy DP2 of the local plan.

#### Conditions and Development Obligations

- 17.68 The conditions are set out at the end of the report. Officers have considered the need for all of the conditions in the context of the six tests contained in paragraph 55 of the Framework and the advice contained in the NPPG. The conditions are considered necessary to ensure that the development is of a high standard, creates acceptable living conditions for nearby residents, as well as a high-quality public realm for the benefit of workers and visitors, is safe and sustainable, minimises the impact on the environment and complies with the relevant development plan policies. Additionally, the conditions comply with the requirements of paragraphs 54 and 55 of the Framework and are considered to meet the other statutory tests.
- 17.69 As a procedural matter under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the Planning Agent has confirmed that they agree to the recommended pre-commencement conditions

### **18.0 Conclusion**

- 18.1 The current application will deliver new and enhanced employment opportunities in a sustainable and accessible location. The site is allocated for employment uses in the adopted and emerging local plans and the emerging MTNP. There would be economic benefits as a result of construction activity and the end uses would create additional jobs. There is sufficient evidence to be confident that the development overall would not have a severe impact upon the highway network in terms of capacity or be detrimental to highway safety once off-road highway improvements have been carried out and would not cause significant harm to the amenity of local residents, ecology, cause flood risk. Therefore, on balance, having considered all material planning considerations and the representations received, the proposals are considered acceptable and recommended for approval.

### **19.0 Recommendation to the Committee**

- 19.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. The legal agreement is to secure the following contributions/obligations:

- i- Contribution of £45k to Marks Tey Parish Council to delivery diversion of footpath 144-15 involving a 3.5m wide pedestrian and cycle path from the eastern boundary of the application over the Marks Tey Parish Council land towards the northeast to connect with pavement of A120.
- ii- Contribution of £14,400 toward museum quality display cases, design and display material.
- iii- Contribution of £753 towards enhancement of the Colchester HER.
- iv- Contribution of £348 to mitigate the information from the archaeological impacts if no archaeological remains are affected by the development.
- v- Obligation to provide 7 on-site car parking spaces in perpetuity for the benefit of the residents of Old London Road and as shown on drawing 18204 PO103 Revision J
- vi- Contribution of £6,132 towards monitoring costs of the Travel Plan by Sustainable Travel Planning Team.

In the event that the legal agreement is not signed within 6 months, to delegate authority to the Assistant Director to refuse the application, or otherwise to be authorised to complete the agreement.

That Permission is then **GRANTED** subject to the following conditions, with delegated authority for officers to add or amend relevant conditions where necessary:

### **Statutory Time Period**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

### **Approved Drawings and Documents**

2. The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers.

MT2-LE-GEN-XX-DR-CE-001 Rev B Highway improvement  
MT2-LE-GEN-XX-DR-CE-010 Rev A Highway improvement  
MT1-LE-GEN-XX-DR-CE-520 Rev D Drainage Strategy

“

Site plan P0102 Rev C

Site layout plan P0103 Rev J

External surface plan PO104 Rev D

Unit 1100 Floor Plan P1100 Rev C

Unit 1100 Roof Plan P1102 Rev C

Unit 1100 Floor and elevations Plans P1103 Rev C

Unit 1000 warehouse area building floor plan P1000 Rev C

Unit 1000 office floor plan P1001 Rev C

Unit 1000 office roof plan P1002 Rev C

Unit 900 Building Floor Plan P0900 Rev C

Unit 900 Office Floor Plan P0901 Rev C

Unit 900 Elevations and floor Plan P0903 Rev C

Unit 800 Building Floor Plan P0800 Rev C

Unit 800 Roof Plan P0802 Rev C

Unit 800 Elevation and floor Plan P0803 Rev C

Flood Risk Assessment May 2021 prepared by Link Engineering

Boundary fencing drawing P0105 Rev E

Cycle shelter drawing P0106 Rev D

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

## **Highways**

3. Before any development forming part of planning application 211788 commences the developer shall have submitted to and approved in writing by the local planning authority in consultation with Highways England the following design details relating to the required improvements to Old London Road, including a new access to the site, and the easing of the radius kerb at the junction between the Old London Road and the A120, as shown in outline on Link Engineering Drawing number MTS-LE-GEN-XX-DR-CE-001 Rev A dated 13<sup>th</sup> May 2021 and MTS-LE-GEN-XX-DR-CE-010 Rev A dated 6<sup>th</sup> May 2021.

Scheme details shall include drawings and Documents showing:

- i- How the improvement interfaces with the existing highway alignment and carriageway markings including lane destinations.
- ii- Full construction details relating to the highway improvement. This should include any modifications to

- existing structures or proposed structures with supporting analysis.
- iii- Full Signing and lighting details.
  - iv- Confirmation of compliance with Departmental standards (DMRB) and policies (or approved relaxations/departures from standards).
  - v- Evidence that the scheme is fully deliverable within the land in control of either the applicant or the Highway Authority.
  - vi- An independent stage 2 Road Safety Audit (taking account of and stage 1 Road Safety Audit recommendations carried out in accordance with Departmental Standards (DMRB) and Advice Notes.
  - vii- A construction Management Plan detailing how construction traffic will be managed.
  - viii- An equality impact assessment.

In addition, the recommendations contained in AECOM Technical Note 'DX117TN03 ISSUED' must be addressed as part of the development of the design.

Reason: To ensure that the A12 and A120 trunk roads continue to serve their purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, and to satisfy the reasonable requirements of road safety.

4. The above scheme approved by the Local Planning Authority shall be implemented and completed to the satisfaction of the Local Planning Authority in consultation with the Highways Authorities and NO beneficial occupation shall take place unless and until the junction improvements shown in outline on Link Engineering Drawing numbers MTS-LE-GEN-XX-DR-CE-001 Rev A and MTS-LE-GEN-XX-DR-CE-010 Rev A, have been delivered and are fully operational.

Reason: To ensure that the A12 and A120 trunk roads continue to serve their purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, and to satisfy the reasonable requirements of road safety.

5. The total floor areas of the development shall not exceed a Gross Floor Area of 12,517sqm comprising a mix of uses E (c & g), B2 and B8 floor space as set out in the application details.

Reason: To ensure that the A12 and A120 trunk roads continue to serve their purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, and to satisfy the reasonable requirements of road safety.

6. No part of the development hereby approved shall be brought into use unless and until a revised travel Plan has been submitted to and approved in writing by the Local Planning Authority who shall consult with Essex County Council as Highway Authority.



The Travel Plan shall be in line with prevailing policy and best practice and shall be in accordance with Essex County Council guidance and as a minimum include:-

- The identification of targets for trip reduction and modal shift
- The methods employed to meet these targets
- The mechanisms for monitoring and review
- The mechanisms and review
- The penalties to be applied in the events that targets are not met
- The mechanisms for mitigation
- Implementation of the travel plan to an agreed timescale or timetable and its operation thereafter
- Mechanisms to secure variation to the Travel Plan following monitoring and reviews

Reason:

To ensure that the A12 and A120 trunk roads continue to serve their purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, and to satisfy the reasonable requirements of road safety and to protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with Policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

7. The commercial units hereby permitted shall not be occupied, until the area shown on Site layout plan P0103 Rev J, as vehicle parking spaces, motor bikes and bicycle shelters shall have been provided, surfaced and drained. Thereafter the parking spaces shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (Order) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking and cycle storage spaces.

Reason: Development without provision of adequate accommodation for the parking of vehicles, motor bikes and bicycle storage is likely to lead to hazardous on-street parking and be contrary to Policy DP19 of the local plan.

### **Archaeology**

8. No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post-investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post-investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

### **Biodiversity and net gain**

9. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (EclA) for this site (Ramboll, June 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. 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.”

Reason: To conserve and enhance 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 (Priority habitats & species).

10. 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 shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details unless otherwise agreed in writing by the local planning authority”

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 (Priority habitats & species) as updated by the Environment Act 2021.

11.No development shall take place (including any ground works, site clearance) until a final Reptile Mitigation Strategy and Method Statement based on a review of the population estimate surveys has been submitted to and approved in writing by the local planning authority,

The content of the method statement shall include the following:

- a) purpose and objectives for the proposed works;
- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) extent and location of proposed works shown on appropriate scale maps and plans;

- d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) persons responsible for implementing the works;
- f) initial aftercare and long-term maintenance (where relevant);
- g) disposal of any wastes arising from works.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

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), s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2020 and s17 Crime & Disorder Act 1998.

12.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 to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation;
- 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 prior to occupation and shall be retained in that manner thereafter.

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

13.A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall be based on identifying those features on-site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. 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 (Priority habitats & species).

- 14.A Landscape and Ecological Management Plan (LEMP) for the reptile receptor site shall be submitted to, and be 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 the implementation of the plan.
- h) Ongoing monitoring and remedial measures.

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

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 (Priority habitats & species) as updated by the Environment Act 2021.

### **Landscape**

15. Notwithstanding the submitted details, no works shall take place above ground floor slab level until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Finished levels or contours, where notable changes are proposed.

- Hard surfacing materials.
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform).
- Retained historic landscape features and any proposals for restoration.
- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated).
- Make on-site sanctuary provision for reptiles'/wildlife mitigation.
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

#### **16. ZFE - Landscape Management Plan NS**

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

#### **17. ZFQ - Tree and Natural Feature Protection: Protected Areas**

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

#### **Contaminated Land**

18. No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local

Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos,
- (ii) 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;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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.

- 19.** No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

- 20.** No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks

written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

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

- 21.** In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition PART 1 OF CONDITION 17, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition PART 2 OF CONDITION 17, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition PART 3 OF CONDITION 17.

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.

- 22.** Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 17.

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.

### **Construction Method Statement**

- 23.** No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:
- the parking of vehicles of site operatives and visitors;



- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control noise;
- measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

**24. No demolition or construction work shall take outside of the following times;**

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

**Mitigating Air Quality and sustainability**

**25. Prior to the use of the commercial units hereby permitted the development shall provide EV charging stations infrastructure at the ratio of 1 charging points per 10 car parking spaces to encourage the use of ultra-low emission vehicles.**

Reason: In the interest of sustainability and air quality of the area and in compliance with paragraph 107 of the NPPF.

**Noise Control and amenity**

**26. Prior to the first use or occupation of the development, as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.**

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

- 27.** The 3.5 metres high, high-density acoustic barriers shown on the submitted Boundary fencing drawing P0105 Rev E shall be erected prior to first use of any of the commercial units hereby permitted. Installation shall be overseen by a competent person. Details of long-term maintenance of the barriers shall be submitted within two months of erection of the acoustic barriers for approval in writing by the Local Planning Authority. The acoustic barriers shall be retained during the lifetime of the development.

Reason: In the interest of amenities of the occupier of the residential properties.

### **Residential amenity and control of uses**

- 28.** Notwithstanding the provisions of the Use Classes Order and GPDO or any subsequent amendment, the Block 1100 hereby approved shall be used only for uses within the Class E (c & g) of the use classes Order and not for any other use falling within Class B2 and B8 of the Use Classes Order, or any other used which may be permitted by the provisions of the GDPO.

Reason: In the interest of amenities of the occupier of the residential properties.

- 29.** The block 1110 hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Weekdays: 07:00-21:00

Saturdays: 07:00-21:00

Sundays and Public Holidays: 10:00-16:00

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

- 30.** No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 07:00-21:00

Saturdays: 07:00-21:00

Sundays and Public Holidays: No deliveries.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

### **Pollution Control**

- 31.** Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme devised by a competent person for the control of fumes, smells and odours, and dust that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. The control measures shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes, odours, dust, and smell in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

- 32.** All surface water arising from the car park/s shall be treated in accordance with current Environment Agency guidance. (For car parks containing 50 spaces or more or discharging to a sensitive environment).

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

- 33.** Prior to the occupation of the development, a signed verification report carried out by a qualified drainage engineer (or equivalent must be submitted to and approved by the Local Planning Authority to confirm that the Sustainable Drainage System has been constructed as per the agreed scheme and plans. This should also include details of whom will be undertaking the management and maintenance of the SuDs features.

Reason: This condition is sought in accordance with paragraph 163 of the NPPF to ensure that a suitable surface water drainage scheme is designed and fully implemented so as not to increase flooding risk on-site or elsewhere.

- 34.** Notwithstanding the lighting scheme submitted, having regard to the terms of the requirements of condition 13 above, and condition 33. below a revised lighting scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall have special regard to avoiding adverse impacts on wildlife, the residential amenity of neighbouring properties and the semi-rural location of the site in accordance with the CBC External Artificial Lighting Planning Guidance Note for zone EZ2.

Reason: The submitted lighting details are not considered appropriate and it is necessary to mitigate potential adverse impacts upon wildlife and residential amenity.

- 35.** Prior to the first OCCUPATION of any of the commercial units hereby permitted, a validation report shall be undertaken by competent persons that

demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein.

Reason: To ensure that the lighting scheme as installed is in compliance with the approved lighting scheme details in order to mitigate potential adverse impacts upon wildlife and residential amenity.

### **Promoting Sustainable Transport**

**36.** None of the commercial units hereby permitted shall be occupied until the PROW 144-15 diverted route for pedestrian and cyclist shall have been made available for use and maintained in good usable condition thereafter.

Reason: In the interest of sustainability and amenity and in compliance with the Travel plan.

### **Informatives**

1. The applicant attention is drawn to the following points in preparation and submission of details pursuant to conditions 3 and 4 for approval in writing by the LPA.
  - The above requirement should be imposed by way of negative planning conditions or planning obligation agreements as appropriate
  - Prior to any works taking place in the highway, the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
  - All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
  - All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to [development.management@essexhighways.org](mailto:development.management@essexhighways.org)
2. The applicant is advised to request a new archaeological brief from CBC's Archaeological Advisor as the former WSI is no longer considered adequate.
3. You are strongly recommended looking at the Essex Green Infrastructure Strategy to ensure that the proposals SuDs are implementing multifunctional green/blue features effectively. The link can be found below. <https://www.essex.gov.uk/protecting-environment>

4. PLEASE NOTE that any storage of hazardous materials as defined in the Town and Country Planning Hazardous Substances Regulations will require a separate consent.
5. Note: Care should be taken to ensure luminaires are directed downwards or shielded to prevent glare and light-spill at all residential properties bordering the site.

#### Footnote

*Note: Interpretation of Class E c) and g)*

*c) the following kinds of services principally to visiting members of the public*

*i. financial services; ii. professional services (other than medical services); iii. any other services which it is appropriate to provide in a commercial, business or service locality.*

*g) i) office ii) the research and development of products or processes or iii) any industrial process, (which can be carried out in any residential area without causing detriment to the amenity of the area*