

AMENDMENT SHEET

**Planning Committee
1 December 2016**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 162302 – Land adjacent to Axial Way, Colchester

Highway Authority has confirmed “From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following requirements”:

Prior to commencement of the development a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority’s Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

Prior to commencement of the development the planning application drawings shall be revised and submitted to and approved in writing by the Local Planning Authority to show the following:

- a. Minimum 500 mm clearance between any structure and existing or proposed highway
- b. Minimum 1.5 x 1.5 metre pedestrian visibility splays where any private drive meets existing or proposed highway
- c. All shared surface roads a minimum of 6 metres wide including turning heads
- d. All minor accesses with minimum kerb radii of 4 metres

The development shall be carried out in accordance with the approved drawing

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority’s Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

No occupation of the development shall take place until the following have been provided or completed:

- a) The traffic island to the west of the proposal site access upgraded to a pedestrian/cycle central refuge island (as per the existing island to the east of the access)

b) Upgrade to current Essex County Council specification the two bus stops in Axial Way adjacent the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)

c) Upgrade the bridleway (located immediately north of the proposal site) between Axial Way and Severalls Lane also cycle improvements along Severalls Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development)

d) Residential Travel Information Packs

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

The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate
Plus advisory notes

ECC SuDS raises no objection subject to

Condition 1

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Infiltration testing in line with BRE 365. If infiltration is found to be unviable, run-off should be restricted to the 1 in 1 greenfield rate based on the area drained by the site or other arrangements to be agreed for all events up to the 1 in 100 inclusive of climate change (40%) storm event.
- Surface water managed suitably on site up to the 1 in 100 inclusive of climate change (40%) storm event. An allowance in storage provisions should also be made for 'urban creep'.
- An appropriate amount of treatment which is demonstrated to be in line with the CIRIA SuDS Manual C753.
- Final detailed modelling of the whole drainage network on site.
- A drainage plan highlighting final conveyance and exceedance routes, location and sizing of storage features, discharge rates and outfall/s from the site.

Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.

- To provide mitigation of any environmental harm which may be caused to the local water environment
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

Condition 2

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented. The scheme shall be implemented as approved.

Reason: The National Planning Policy Framework paragraph 103 and paragraph 109 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating against this should be proposed.

Condition 3

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Condition 4

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

Plus INFORMATIVES:

Correspondence between Ward Councillors and Persimmon

Following a Briefing Note sent by Persimmon to Committee Members and ward councillors, Councillors Goss and Coleman identified the following four matters that they considered needed to be addressed

1. Resident only parking scheme.
2. Litter and dog bins in POS area.
3. Covenants in the deeds that residents won't sue Fläkt Woods for excessive noise.
4. Management company arrangements.

Response from Persimmon

1. Parking Controls

All roads will be built to ECC Highways adoptable standards, have highway rights over them and be maintained at private expense. They will be owned, managed and maintained by a Management Company. This is a common practice and is proposed to be secured by s106 legal agreement.

Robust Parking Management will be put in place. It is proposed that a residents' permit scheme will be used, administered and enforced by the Management Company. Those homes without in-curtilage parking would be required to display a valid permit in cars parked within the development. For visitor parking, books of visitor parking permits will be issued to the householders and available from the management company. Visitors would be required to display a visitor parking permit card with day of use scratched off. The estate roads and parking areas will include signage at the site entrance and at regular intervals within the site to advise motorists that unauthorised parking without a valid permit is not permitted and will be subject to fine.

2. Arrangement for Management

The s106 legal agreement requires details of the Management Company and the submission and agreement of a Management Plan (for the open space, maintenance of roads and drainage, management of parking controls) prior to any reoccupation.

3. Litter bins in POS area

We are happy to include litter bins and dog bins within the POS. Condition 7 requires details of the hard and soft landscaping and we are happy to include the provision of bins.

4. Noise climate

Cllr Coleman asked if tests have been carried on current noise environment. Extensive noise testing has been done. The acoustician has done this with the co-operation of Flakt Woods and had regard to their operations. The results and the modelling undertaken are set out in two Noise Reports accompanying the application. It has been demonstrate that the gardens of the new homes will meet the relevant British Standard. Furthermore, that the scheme has been designed and the modelling demonstrates that residents can have their principle windows open even when Flakt Woods are undertaking their large fan testing (which is limited in duration and frequency). This is a residentially allocated site and the modelling demonstrates that the noise climate for residents will be acceptable having regard to nationally recognised standards. Indeed the noise climate will be significantly better than the apartments within Cuckoo Point that face onto the Severalls Roundabout.

Legal advice received by the Council

Members will note Councillors requested a Covenants in the deeds that residents would not sue Fläkt Woods for excessive noise. The Council has sought legal advice on whether this could be included with in the section 106 legal agreement. The advice received is set out below;

"It absolutely is outside of the scope of Section 106.

Such a covenant would be a personal covenant and nothing to do with Section 106, which says that covenants imposed must:

- (a) restrict the development or use of the land in any specified way;*
- (b) require specified operations or activities to be carried out in, on, under or over the land;*
- (c) require the land to be used in any specified way; or*
- (d) require a sum or sums to be paid to the authority on a specified date or dates or periodically.*

In any event, all residents have the statutory right to have noise complaints investigated via the Environmental Protection Act, and the covenant proposed would effectively be expecting them to contract out of that right, which is not permissible".

Further comment from Persimmon

In terms of further control, we would ensure that the measures to ensure satisfactory noise environment are retained. Measures within the public domain, such as the screen fencing, will form part of the long term responsibility of the Management Company. We will ensure that within the transfer to the Management Company this includes a covenant to retain, manage, maintain, repair and replace the screens. We are happy for this to form part of the s.106 agreement with the Council.

In terms of private residences, the application includes measures such as appropriate glazing and venting specifications. Condition 6 withdraws the

right to insert new windows. In terms of further control, we are happy to insert a covenant or an additional condition to ensure that no new windows or openings are formed and that any replacement glazing / windows has to comply with or exceed the agreed specification within the Noise Impact Assessment.

Amendments to Recommendation

Legal agreement- the Management Company to be responsible for the retention, maintenance, repair and replacement of the screen fencing. A Parking Management Plan to be submitted and agreed.

Condition 6 withdraws the right to insert new windows. The Planning Authority therefore has control over new windows as any window would require planning application.

Condition 7 wording to be revised to include specific reference to the provision of litter bins and dog bins.

Conditions and informatives recommended by the Highway Authority and ECC SuDs to be added

7.2 160825 – Land at Cuckoo Farm West, Off United Way and Via Urbis Romanae, Colchester

Following receipt of a late representation the report has been withdrawn to allow consideration of the matters raised.