

AMENDMENT SHEET

Planning Committee
20 January 2022

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

- 7.1 212810 – Man Energy Solutions, St Leonards works, Port Lane, Colchester

The wording of certain conditions has been amended to allow the potential for a phased development. Whilst it is likely that the development would be provided in one phase, this is not certain. A phased development would allow some flexibility. An updated Arboricultural Impact Assessment was also submitted, as a result of which the approved document reference needs updating.

The following conditions have been amended (only where they refer to the phasing of development or require clarification, with emphasis on the proposed changes):

2 - ZAD - Time Limit for Outline Permissions Part 2 of 3

Application for approval of the *first* reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. *The last reserved matters shall be made to the Local Planning Authority before the expiration of 5 years from the date of this permission.*

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4 - ZAM - *Development to Accord With Approved Plans*

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

MP_00_0000 Rev 05 Location Plan Site Boundary

MP_00_1001 Rev 05 Parameter Plan Land use & Building Heights

78313-CUR-00-XX-DR-TP-75001-P05 Proposed Access Arrangement Phase 1 Geoenvironmental Site Assessment (Reference:14-756-R1-4, dated 30th September 2021)

Preliminary Arboricultural Impact Assessment (TG Report No. 13829_R02e_RA_CW, dated 14th January 2022)

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

5 - Archaeology

Prior to the commencement of *each phase of development*, no works shall take place (*other than agreed demolition and site clearance works*) until the implementation of a programme of archaeological work has been secured *for that phase*, 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 *each phase of development*. *No dwelling hereby permitted* shall be occupied 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 Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

7 - Z00 - Landscape Details

No works permitted by reserved matters application(s) shall take place above ground floor slab level (*other than agreed demolition and site clearance works*) until details of all landscape works for that phase 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 dwelling permitted within each phase of 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 changes are proposed.

- Means of enclosure.
- Car parking layouts and other vehicle and pedestrian access and circulation areas;
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- 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.
- 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.

8 - ZFE - Landscape Management Plan

Prior to the first occupation of *any dwelling permitted within each phase of development*, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens *within that phase* 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.

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

No works permitted by reserved matters application(s) shall take place (*other than agreed demolition and site clearance works*) 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 *for that phase of development*, whether or not it originates *on that phase*. 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 *for each phase* 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 DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and 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

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

No works permitted by reserved matters application(s) shall take place (*other than demolition and agreed site clearance works*) until a detailed remediation scheme to bring *that phase* 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 *for each phase* 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 *phase* 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

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

No works permitted by reserved matters application(s) shall take place *within that phase* other than that required to carry out remediation and *agreed demolition and site clearance works*; 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 *for each phase*. 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 *for each phase*, 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

13 - ZG3 - *Validation Certificate*

Prior to the first occupation of *any dwelling permitted within in each phase of development*, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed *for that phase* in accordance with the documents and plans detailed in Condition 12.

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

14 - ZAN - Site Levels Plan

No works permitted by reserved matters application(s) shall take place until detailed scale drawings by cross section and elevation that show *that phase of development* in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and agreed, in writing, by the Local Planning Authority. *Each phase of development* shall thereafter be completed in accordance with the agreed scheme before *any dwelling permitted* is first occupied.

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at present and where there is scope that any

difference in such interpretation could have an adverse impact of the surrounding area.

15 - ZPA – Construction Method Statement

No works permitted by reserved matters application(s) shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, *for each phase*, 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 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.

16 - Z00 - Priority Junction

Prior to the proposed access being brought into *first public* use, a priority junction off Port Lane to provide vehicular and pedestrian access to the proposal site shall be provided or completed. The priority junction shall have but not limited to a minimum 2.4 x 43 metre visibility splay in both directions as measured along the nearside edge of the Port Lane carriageway. The visibility splays shall then be retained and maintained free from obstruction clear to ground thereafter.

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.

17 - ZJX - *Internal Estate Road Junction*

Prior to each internal estate road junction being first used by *public* vehicular traffic, that junction shall be provided with a clear to ground level visibility splay with dimensions of 25 metres by 2.4 metres by 25 metres on both sides. Such visibility splays shall be retained and maintained free of any obstruction clear to ground in perpetuity.

Reason: To ensure intervisibility between users of the highway at or approaching the road junction in the interests of highway safety.

18 - ZJF - *Cycle Parking TBA*

Prior to the first occupation of *any dwelling permitted within each phase of development*, details of the provision for the storage of bicycles sufficient for all occupants *of the that phase* shall be submitted to and agreed, in writing, by the Local Planning Authority. The agreed cycle

parking provisions shall thereafter be maintained and made available for this use at all times.

Reason: To promote the use of sustainable means of transport.

20 - Z00 - Residential Travel Packs

Prior to first occupation of *any dwelling permitted within each phase of development*, the developer shall be responsible for the provision, implementation and distribution of Residential Travel Information Packs for sustainable transport for the occupants of each dwelling, approved by Local Planning Authority, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

21 - Z00 - Travel Plan

No *dwelling permitted by any reserved matters application(s)* shall be occupied before a Travel Plan has been prepared in accordance with Essex County Council guidance and submitted to, and approved in writing by the Local Planning Authority.

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

27 - Z00 - Foul water drainage scheme

Prior to the construction above damp proof course of *each phase of the development*, a scheme for on-site foul water drainage works, including connection point and discharge rate *for that phase*, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

Reason: To prevent environmental and amenity problems arising from flooding.

33 - Z00 - Provision of Open Space

The *development* shall include at least 10% of the site area to be laid out for use as amenity open space, and shall include a landscape scheme, implementation timetables, monitoring programme and management plan to be submitted and approved by the Local Planning Authority. The open space shall be provided in accordance with the approved details.

Reason: In order to ensure that the development provides an adequate provision of open space(s) that are usable for public enjoyment after the development is completed.

7.2 211788 – Land west of 194 and east of 202 Old London Road, Marks Tey

Update for committee on proposed wording of Revised Marks Tey Neighbourhood Plan Policy MT15 **attached for reference**. For members information please refer to amended wording of the Marks Tey NP policy following examination. In particular, members to note that the proposals do not provide direct access to the site to/from the A12 as required by Policy MT15 but instead via Old London Road and its junction with the A120.

Late representation received from Marks Tey Parish Council

“Whilst the Marks Tey Parish Council acknowledges this area is designated for commercial use we feel that the planning consent for this area should be withheld for the following reasons:

- 1) Old London Road is not suitable to accommodate the proposed traffic movements.
- 2) The A12 changes will provide a better solution for both the residents, the Parish Hall and the A120.
- 3) The developers are placing unacceptable risk on the PC regarding foot/cycleway.

Old London Road is at present narrow in places making it impossible for two HGV's to pass and the footpath is being used thus creating damage and safety concerns. The developers are proposing to alleviate this by providing passing places and taking away residents parking. Developers plans are to provide seven parking spaces on their land this is not adequate compensation of a lost amenity and who would feel this is justified when carrying heavy shopping or walking home in the rain.

The PC have put forward proposals to NH to provide direct access to this site from the slip road of the new Junction 25, discussions have taken place with NH and have been supported by our ward councilors, our county councillor and our MP. At present we are awaiting a meeting with NH and our MP as it appears that the project teams from NH looking at the A12 and the team commenting on this scheme are not communicating their findings leaving a less than strategic approach.

Further traffic concern are the speed of vehicles using this road and the difficulties of joining the A120 from Old London Road. At this junction there is the entrances to the businesses opposite and a traffic light controlled pedestrian crossing. The existing traffic volumes approaching the round-a-bout already queue back around two miles at peak times and increasing the use of this junction will only compound this creating even more air pollution to an area that has already been highlighted as one of the worst in the county. Furthermore the increased traffic along Old London Road will make the Parish Hall

much more difficult to access and therefore a lot less desirable to host functions.

Part of the proposal for this development was for a walkway and cycle route to be provided by the developers from this site to the railway station across the Marks Tey Playing field to meet the A120 close to the Old London Road junction. The developers have since changed their minds and are providing a sum of £45000 for the PC to provide this. The PC have expressed concerns to the developers and the Planning Officers at CBC that they do not have the expertise to project manage this scheme or ability to cost this project. As such it appears the risk is being transferred from the developers to the PC, this is not consider fair or reasonable.

In view of this we would ask that planning consent is deferred until all investigations have been completed.”

2 late representations have been received stating:-

“This site is awful for residents
I have been forced off of the road by aggressive van and lorry drivers
They mount kerbs and verges
Have ripped the road surface to shreds
Block the road while waiting to go in and out and won't let cars through
Pull out of site with no consideration for traffic coming from further up the road
Pull off A12 directly onto old London road dangerously as when I have been driving to my property I have repeatedly been faced by vans flying off A12 towards me
The entire site and entrance is dangerous the road is not suitable for so many commercial vehicles ”

“The recent request to alter operational hours should not be approved. The site at the old andersons is already causing issues for residents with workers shouting late at night and early mornings. The traffic to this site and the new Nustone site at the previously names Bypass nurseries are overloading a narrow road network to and from these industrial units. Lorries are parking on the road overnight when the gates are closed meaning people have to walk in the narrow unlit road. the road surface is crumbling and we still haven't seen any attempt to alleviate the problems of getting all of this traffic out of Old London road during peak times. ”

Please also attached representations from Rt Hon Priti Patel a representation on behalf of a potential tenant

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.



THE RT. HON. PRITI PATEL MP

WITHAM

HOUSE OF COMMONS
LONDON SW1A 0AA

Tel: 020 7219 3528

E-mail: withammp@parliament.uk

Website: www.pritipatelmp.com

Mr Adrian Pritchard
Chief Executive
Colchester Borough Council
Town Hall
Colchester
Essex
CO1 1GL

URGENT

Our Ref: ZA75630

18 January 2022

Dear Mr Pritchard,

Planning application 211788 | Land West of 194 and East of 202 Old London Road, Marks Tey, Colchester, Essex | 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 London Road and its junction with the A120.

I understand that the Planning Committee meeting scheduled for 20 January 2022 is due to consider the above referenced planning application with a report from officers recommending approval of the plans subject to various conditions. While I note the strategic planning allocation of this site and the assessment by the Council's planning officers, I am very concerned about this planning application being granted permission.

Local residents and Marks Tey Parish Council have put forward very strong and robust arguments for the application to be refused and I strongly urge the Council and the Planning Committee Members to fully consider the points they have made.

As the Council and Members of the Planning Committee will be aware, Old London Road is impacted by significant levels of traffic which residents in the area find disruptive and potentially dangerous. The redevelopment of this site, as proposed, would serve to exacerbate those pressures and as such residents are concerned about the impact on air quality, traffic and congestion, safety, noise and disruption. While I note the comments in the report regarding highways, Old London Road is narrow and unsuitable for HGVs, with residents frequently complaining about issues when HGVs are travelling on this road.

There are also significant concerns about this development being granted planning permission while there is some uncertainty about the alignment, route and junction 25

Putting the Witham Constituency, Essex and Britain first.

configuration which will be agreed as part of the A12 Widening Scheme, which was consulted on by National Highways last year. As such, approving this planning application at this time would be premature. A more sensible approach would be for decisions on future development of this site to be made once there is more certainty over the future traffic flows and A12 Widening Scheme alignment and configuration of junction 25. It is clear that a strategic approach bringing together decisions over this site and the A12 Widening Scheme is the most appropriate way to take decisions that would bring this site into use and minimise the impact on Old London Road.

As such, I would draw the Council's and Members of the Planning Committee's attention to the comments made by Marks Tey Parish Council on this matter and the submission they have put forward. The Parish Council has highlighted the disadvantages of the current proposed layout of the A12 Widening Scheme and junction 25 in this location and the cumulative adverse impacts with this planning application. Furthermore, the designs and conditions proposed in the report relating to this application on highways matters will not address the difficulties that have been highlighted.

Nevertheless, the Parish Council has endeavoured to undertake a constructive approach to these matters and has put forward a proposed alternative configuration of junction 25 and access to this development site, which would minimise the impact on Old London Road. This proposal should be given time to progress and National Highways an opportunity to consider amending their proposals. This should happen prior to this application being determined because of the impact this development could have and the A12 Widening Scheme has on this location.

Consequently, I would ask that the Council and Members of the Planning Committee refuse this planning application; and that the matters raised by the Parish Council should be resolved and addressed prior to any consent being granted; and in the future if any consent is granted it should be on the basis of an acceptable and integrated and appropriately considered and better configured junction.

Yours sincerely,



Rt Hon Priti Patel
Member of Parliament for Witham



Colchester Borough Council
Planning Department
Planning.services@colchester.gov.uk

17th January 2021
ABP/0304

Dear Sir,

APPLICATION: 211788

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 London Road and its junction with the A120.

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

I am writing on behalf of potential prospective occupiers of units 810 and 820 on the above scheme.

The proposed B8 use of these units would require lorry dispatch from 05:00 a.m. to allow for national distribution to the national motorway network prior to the morning peak. The average number of despatched lorries would be 8, so a relatively low level of vehicles within the whole site.

As far as units 810 and 820 are concerned it is really important economically for the use to have a bespoke condition to allow this earlier timing. The prospective occupier requires a night shift involving picking and packing orders and then loading the vehicles which then leave to do their daily deliveries from 5:00 a.m. as this is essential if they are to get through the traffic early and accomplish their days work on the national network.

The officers report recommending approval to Committee is supported, but I am requesting an amendment to add a condition for this extended use of units 810/820 and that it is brought to their attention.



The site is fully allocated for employment use and as Paragraph 17.5 states – “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.”

I appreciate that adjoining residents’ amenity must be considered and protected, but equally the units must be competitive and in the case of my client earlier deliveries are required to maintain competitiveness and the current proposed condition effectively nullifies the permission for this B8 use for this particular firm.

The site is directly located on the Strategic A12, which has generally high flows throughout the evening and early morning in any event, so the background flows are already high, so an additional 8 vehicles earlier will not demonstrably harm resident’s amenity but importantly also not unduly fetter economic activity.

Paragraph 17.24 refers to “Environmental Protection has recommended restrictions on the hours of construction and operation of the units including deliveries to and from the site”

There is no objection to this mitigation in principle, but condition 30 proposed applies to the whole site.

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.”

I would request that an additional condition is inserted (similar to the approach taken for unit 1110 condition 29), which can then be considered by Committee to be amended to read -



New Addition condition

"No deliveries to units **810 and 820** shall be received at, or despatched from, the site outside of the following times:

Weekdays: 05:00-24:00

Saturdays: 05:00-24:00


Sundays and Public Holidays: 07:00 – 18:00"

The other approach would be to exclude 810 and 820 from existing condition 30 and leave them to operate unrestricted.

I would be grateful if this submission can be included in a committee update sheet and put to Committee for consideration.

If you wish to discuss, please do not hesitate to contact me.

Kind Regards


Andrew Beard MRTPI
Consultant