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**Item No:** 7.3

**Application:** 231600

**Applicant:** Denbury Homes

**Agent:** Mr Robert Eburne

**Proposal:** Construction of 70 dwellings including 24 affordable homes (Rural Exception Site Local Letting homes, Affordable Rent Homes and Shared Ownership Homes), garages, parking, vehicular / cycle and pedestrian accesses, public open space, landscaping, drainage infrastructure and other associated works

**Location:** Land to West of, The Folley, Layer-de-la-Haye, Colchester

**Ward:** Marks Tey & Layer

**Officer:** Mr Daniel Cooper

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because this is a major application on an allocated site where the proposal is a departure from the adopted local plan. The proposed access point deviates from the allocation policy of SS10 Layer De La Haye. The policy requires primary access to serve the development from Great House Farm Road (South boundary of the site) whereas the proposal is for sole vehicle access onto and from The Folley. In addition, policy SS10 also requires a fully equipped children's play area however, due to local objections, this is not included in the final proposal. Furthermore, the Rural Exception Site has been amalgamated into the wider scheme and does not sit within an area outside of the settlement limits as per the previous approval.

## **2.0 Synopsis**

- 2.1 This full application follows the consent of two outline applications 211392 and 211393 each for a parcel of land on this allocated site. They were subsequently approved at committee and this current application has amalgamated the two parcels into one master planned proposal.
- 2.2 The application has been assessed against adopted planning policy, with the benefit of consultation responses and representations from third parties. The planning benefits of the proposal are considered to outweigh any identified adverse impacts, most notably the affordable housing provision and the low density layout.

## **3.0 Site Description and Context**

- 3.1 The site is located in the northeast of Layer de la Haye, adjacent to the settlement boundary of the village (to the south).
- 3.2 The site is an amalgamation of two sites with outline consent and is now a single site of 4.9Ha in size.
- 3.3 The site is irregular in shape with a larger rectangular shape being the main wider section to the North West with a smaller irregular pentagonal shaped area to the South East. This is where the access point onto The Folley will be located. The north of the site adjoins another field and Public Right of Way 141/3, and the western boundary meets the rear gardens of properties in Les Bois. The Southern boundary of the site is adjacent to properties in Great House Farm Road, and Martin End. The eastern boundary of the allocation site however adjoins The Folley, which comprises interspersed detached residences within large plots.

## **4.0 Description of the Proposal**

- 4.1 The proposal seeks full planning permission for 70 homes which includes 24 affordable homes (Rural Exception Site Local Letting Homes, Affordable Rent Homes and Shared Ownership Homes), garages, parking, vehicular / cycle and pedestrian accesses, public open space, landscaping, drainage infrastructure and other associated works.

## **5.0 Land Use Allocation**

5.1 The land is currently arable farmland. The site is allocated under policy SS10 of Section 2 of the adopted Local Plan for 'at least 35 new dwellings of a mix and type compatible with surrounding development, to include bungalows and small family homes'.

## **6.0 Relevant Planning History**

6.1 As noted above, previous outline proposals for housing development 211392 and 211393 were approved in 2022. This current application is an amalgamation of the two delivering the same number of open market and affordable units. There have been a number of planning approvals in the immediate vicinity, but these have no material bearing on the site in question.

## **7.0 Principal Policies**

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account 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 Local Plan 2017-2033 Section 1**

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. The Section 1 Local Plan was adopted on 1 February 2021. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP5 Employment
- SP6 Infrastructure & Connectivity
- SP7 Place Shaping Principles

### **7.3 Local Plan 2017-2033 Section 2**

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

SG1 Colchester's Spatial Strategy  
SG2 Housing Delivery  
SG7 Infrastructure Delivery and Impact Mitigation  
ENV1 Environment  
CC1 Climate Change  
PP1 Generic Infrastructure and Mitigation Requirements  
DM1 Health and Wellbeing  
DM2 Community Facilities  
DM8 Affordable Housing  
DM9 Development Density

DM10 Housing Diversity  
DM12 Housing Standards  
DM15 Design and Amenity  
DM16 Historic Environment  
DM18 Provision of Open Space and Recreation Facilities  
DM19 Private Amenity Space  
DM20 Promoting Sustainable Transport and Changing Travel Behaviour  
DM21 Sustainable Access to development  
DM22 Parking  
DM23 Flood Risk and Water Management  
DM24 Sustainable Urban Drainage Systems  
DM25 Renewable Energy, Water Waste and Recycling

- 7.4 Some “allocated sites” also have specific policies applicable to them. The adopted local plan policies set out below are of direct relevance to the decision making process:

SC1 South Colchester Allocations  
SS10 Layer de La Haye

- 7.5 There is no Neighbourhood Plan for the area.

- 7.6 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  
Affordable Housing  
Community Facilities  
Open Space, Sport and Recreation  
Cycling Delivery Strategy  
Sustainable Drainage Systems Design Guide  
Street Services Delivery Strategy  
Planning for Broadband 2016  
Managing Archaeology in Development.  
Developing a Landscape for the Future  
ECC’s Development & Public Rights of Way  
Planning Out Crime

## **8.0 Consultations**

- 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.

Active Travel England  
No comment

Arboricultural Officer  
To be updated verbally

Archaeological Officer

Evaluation report has been submitted. Very few archaeological features were identified, and those exposed were fully explored at the time via the extension of the relevant trenches. The proposed development will not result in material harm to the significance of below ground archaeological remains. No requirement for any archaeological investigations in this case.

Anglian Water

Anglian water has capacity for the foul drainage/waste water resulting from this development.

Colchester Cycling Campaign

No objections

Contaminated Land Officer

Requests that a 'reporting of unexpected contamination' condition is imposed.

ECC Green Infrastructure

No objections. Conditions suggested.

Environmental Protection

Conditions requested

Environment Agency

No comments

Essex County Fire and Rescue

Access for the fire service is considered satisfactory. Additional water supplies for fire fighting may be required. Applicant/architect is advised to contact water section at headquarters. They also recommend a risk based approach to the inclusion of automatic water suppression systems (AWSS).

Essex Police

Notes the importance of lighting to deter criminal activity. EV charge points recommended to be certified to British Standard's Institute Kitemark for the Internet of Things.

Highway Authority

No objections subject to conditions.

Highways England

No objections

Landscape officer

No objections

#### LLFA (ECC SuDS)

No new comments since re-consultation. No objection subject to conditions.

#### Mineral and Waste (ECC)

The MWPA recognise that the proposed area of development prohibits prior extraction of minerals, and future realistic minerals development. It is noted in section 3.4 that “there is potential for this site-won material to be utilised on-site during construction, which would potentially reduce costs and contribute to the sustainability of the project”. The MWPA encourage this. The MWPA is otherwise satisfied with the conclusions drawn and notes that an MRA is not required for the site.

#### Natural England

No objections subject to securing mitigation measures (RAMS payments).

#### NHS

Developer contribution to mitigate the impacts of the proposal - £42,750.00

#### Public Sector Housing

No objections

#### Ramblers Association

No comments

#### UK Power Networks

No objections. Have asked that there is a 3m access width to their poles for maintenance. **(Officer Note – Agent has confirmed that 3m clearance has been achieved around each pole through the site. See file for email).**

#### Urban Design Officer

Comments provided. Largely acceptable, conditions provided.

### **9.0 Parish Council Response**

- 9.1 Following amendments to the scheme and a re-consultation, the Parish Council have stated the following:

*Layer de la Haye Parish Council would like to see the existing high voltage cables run underground within the new proposed development as once the estate is built there will be no adequate access for maintenance.*

*Layer de la Haye Parish Council are pleased that Denbury homes has listened to the requests of the residents and actioned them following a recent informal meeting between all parties.*

**Officer note – UK Power Networks have not objected and asked for a 3m clearance around each pole for maintenance. Agent confirmed that this has been done (see above). Given this, it is considered that the poles/cables can be accessed for maintenance.**

## **10.0 Representations from Notified Parties**

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties and this generated a number of comments (29 objections, 34 'other' comments and 17 support comments). We also received two letters from Rt Hon. Priti Patel MP setting out concerns of two residents who wrote to her.

10.2 Some of the comments received a very detailed and it is beyond the scope of this report to set them all out in full. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

- The scheme has increased from a previous 50 to now 70
- Local services are already saturated
- Sole access onto the Folley is wrong. Access should be through estate as previously stated.
- Construction traffic only using The Folley will cause issues
- Green space to North should be moved to separate development from Martin End
- Too much social housing near Martin End
- Increased traffic in the area
- Possible overlooking from new development into existing homes
- The Folley road is in poor condition and cannot handle the only access point
- More bungalows and 1.5 storey dwellings should be included
- Noise and dust during development will negatively impact adjacent homes

## **11.0 Parking Provision**

11.1 Proposed parking provision meets the adopted standards and is considered adequate for each proposed dwelling. Highways have not objected.

## **12.0 Accessibility**

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.

For all CBLP allocations the accessibility standard for 10% of market housing and 95% of affordable housing will meet Building Regulations Part M4 Cat 2. 95% (excluding upper floor dwellings). 5% of affordable housing should meet Part M4 Cat 3 (2) (b) as set out in Policy DM12 vi.

## **13.0 Open Space Provisions**

13.1 Despite the revisions, the development area does not extend into public open space provisions. This provision totals to 13,389 square metres.

## **14.0 Air Quality**

14.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

## 15.0 Planning Obligations

15.1 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 Contributions/Obligations that would be agreed as part of planning permission 231600 would be:

- **Libraries** - £5446.00
- **Communities**: £148,711.75
- **Parks and Recreation**: £314,917.40 and 91,997.34 to maintain POS if adopted.
- **Affordable Housing** and first let local connections lettings policy to be part of 106 agreement as set out in detail below.
- **RAMS** contribution to also be collected via the Section 106 agreement.
- **NHS** – Developer contribution to mitigate the impacts of the proposal - £42,750.00

## 16.0 Report

16.1 The land subject of this application is allocated for ‘at least 35 new dwellings’ and the Rural Exception Site has been amalgamated into the wider scheme and does not sit within an area outside of the settlement limits as per the previous approval.

16.2 Given the land allocation under policy SS10 of the adopted Local Plan as well as the previously approved outline permissions for the site, now amalgamated into one proposal, the principle of the proposal has been considered acceptable.

16.3 The proposal consists of a mixture of bungalows, 1.5 storey and two storey dwellings with 19 plots as affordable rent, 5 plots as shared ownership and 46 plots as open market totalling to 70 new dwellings with 24 considered affordable homes.

16.4 The proposal provides a varied mix of dwelling designs and materials as can be seen in the submitted house type drawings. Materials range from external bricks, timber cladding and some render. All materials proposed are considered to be of high quality. Further to the above materials, the proposed detailing and fenestration of the dwellings is considered to be high quality with quoining and soldier coursing as well as good quality window detailing enhancing the design.

16.5 Policy DM15 Design and Amenity provides that all development must be designed to a high standard, respect and enhance the character of the site, its context and surroundings. Given the above, it is considered that the proposal meets these policy requirements regarding design and materials.

### Affordable Housing

16.6 Policy DM8 of the adopted local Plan requires 30% of new dwellings on housing developments of 10 or more dwellings should be provided as affordable housing. As noted above, 24 of the proposed 70 dwellings will be classed as affordable housing which is 34% affordable housing allocation. This meets the policy



requirement with a 2.8 dwelling number increase over the baseline requirements. In terms of affordable housing provision therefore, the proposal is considered acceptable and policy compliant.

- 16.7 The outline permissions were separated into two independent planning permissions. One of those permissions was for a rural exception site (RES) which sat outside of the development boundary as is typical of RES's. This scheme however, has encompassed the RES and the allocated site in one master planned layout. It is important to note that the quantum of affordable housing is as previously approved and the new s106 agreement that will be drafted following the resolution will secure not only the affordable dwellings on the RES but the local lettings policy that previously applied to the larger of the sites which previously gained permission.
- 16.8 In short this proposal will encompass all of the affordable housing that the two previous outline permissions secured with the same total number of units and proportion of affordable homes..

#### Development Density

- 16.9 Policy SP3 of section 1 of the adopted Local Plan states that future growth (of existing settlements) will be planned to ensure settlements maintain their distinctive character. Policy DM9 Development Density of section 2 of the adopted Local Plan provides that development will need to be at an appropriate density and massing and have regard to the character of the site and its immediate surroundings as well as the wider locality. As can be seen in the submitted documents, the proposal is of a low density which reflects the surrounding low density development in the village, in particular the density of dwellings along The Folley and Les Bois to the West.
- 16.10 Regarding the above, the proposal is considered of low density that positively responds to the context and character of the locality. The proposed layout/density is appropriately rural in character.

#### Amenity

- 16.11 Policy DM15 Design and Amenity states that all development will protect and promote public and residential amenity, particularly with regard to privacy, overlooking, noise and disturbance. Adequate amenity provisions have been retained with regards to new dwellings affecting each other. There are no concerns in this regard.
- 16.12 It is noted however, that a number of objections have been submitted raising concerns over rear first floor windows negatively impacting amenity of existing dwellings in terms of angles of outlook into private amenity spaces, in particular, this issue has been raised regarding 'Martin End'. The Essex Design Guide requires a minimum back-to-back distance of 25m between existing and proposed homes. The initial distance proposed on submitted documents between the new dwellings and the existing Martin End dwellings was 26m however, up to date revisions has increased the distance to 29m and with a landscaped buffer.

16.13 Given that the intervening distance exceeds the minimum required, impact on existing dwellings is considered acceptable, satisfying policy requirements. The proposal is also wholly in conformity with the character of the area.

#### Canopy Cover

16.14 Policy CC1 Climate Change recognises the need for a low carbon future and sets out criteria which this is achieved by for future development. Criteria (iv) provides that development proposals should seek to increase canopy cover on site by a minimum of 10%. Given that the development site is at present mostly open field, any additional tree planting will result in canopy cover gain however, the recent revisions have included around an 89% canopy cover gain which far exceeds policy requirements and is considered a positive contribution.

#### Climate Change

16.15 In 2019 Colchester Council declared a climate emergency. As such, policy CC1 Climate Change provides criteria for new development to achieve a low carbon future for Colchester. As noted above, this policy includes canopy cover however, it goes further by requiring, inter alia, renewable and low carbon technologies and design and construction techniques for climate change mitigation as well as other relevant criteria. The applications submitted Design and Access Statement acknowledges the Council's position and policy and indicates that a condition requiring such details is expected. Accordingly, such a condition will be included.

#### Biodiversity Net Gain

16.16 Policy ENV1 Environment provides that the Local Authority will conserve and enhance Colchester's natural environment. Under section C subsection (v) it states that development will be supported where it incorporates beneficial biodiversity conservation features, measurable biodiversity net gain of at least 10% in line with the principles outlined in the Natural England Biodiversity Metric, and habitat creation where appropriate.

16.17 As can be seen from the latest revisions, the proposal includes a 28% biodiversity net gain. This exceeds the minimum policy requirement significantly and is therefore considered acceptable. In addition, Place Services has supported the proposed biodiversity enhancements and have suggested conditions accordingly.

#### Ecology

16.18 As part of the proposal a Preliminary Ecological Appraisal, Winter Bird Survey, Bat Activity Survey and Reptile Survey has been submitted. Place Services has commented advising that they are satisfied there is sufficient ecological information available for determination of this application. They go on to state that the mitigation measures identified in the above-mentioned documents

should be secured by conditions and implemented in full. Accordingly, they have provided a number of relevant conditions to secure these measures.

### Sustainable Urban Drainage Systems

- 16.19 Policy DM24 Sustainable Urban Drainage Systems provides that all new residential and commercial development, car parks and hard standings should incorporate Sustainable Drainage Systems (SuDS) appropriate to the nature of the site. Such systems shall provide optimum water runoff rates and volumes taking into account relevant local or national standards. It goes on to state that SuDS design and quality will be expected to conform with standards encompassed in the relevant BRE, CIRIA standards and Essex County Council's SuDS Design Guide to the satisfaction of the Lead Local Flood Authority. Furthermore, the policy notes that opportunities should be taken to integrate sustainable drainage within the design of the development, to create amenity space, enhance biodiversity and manage pollution.
- 16.20 Accordingly, a Flood Risk Assessment and Surface Water Drainage Strategy has been submitted. The report notes that the site is located within Flood Zone 1 and the proposed development will not cause further flood risk to the local surrounding areas. It goes on to observe that the site has been proven to infiltrate at source and therefore the proposed surface water drainage design has been designed such that all captured water will be disposed of into the ground mimicking the existing characteristics of the site.
- 16.21 Further to the above, the report also finds that a perched water table was found consistently across the site at depths of approximately 2.1-2.8m and therefore all infiltrating features have been designed to be a minimum of 1m above the water table. Furthermore, sizeable attenuation has been provided across the site to accommodate all the relevant design events with a suitable freeboard above such water levels.
- 16.22 The report goes on to advise that more than sufficient pollution mitigation has been enforced across the design and the proposed foul drainage on site, drains to an adoptable pumping station via gravity and is pumped to a newly constructed manhole on-line of the existing Anglian Water foul sewer located within The Folley. Finally, the report finds that both the surface water and foul water systems have been designed in accordance with all relevant policies and guidelines.
- 16.23 Further to the above, it should also be noted that there are 4 proposed drainage basins located around the site that will provide a catchment for surface water run-off and can hold large bodies of water.
- 16.24 As per the initial submission, SuDS made a holding objection which the applicant has attempted to overcome with their re-submitted drawings which they consider satisfy the requirements of the SuDS team. SuDS formal response and suggested conditions are awaited following reconsultation. **Officer note – SuDS have since comments with no objections subject to suggested conditions.**

## Public Rights of Way

- 16.25 There are two public rights of way, one along the North boundary and one along the West boundary. These have been integrated into the layout from the outset and have been afforded ample space to ensure their definitive line will be maintained.

## **Departure from Policy**

### Access Points

- 16.26 Policy SS10 allocation for this site states access points as *'Primary highways access to serve the development from Great House Farm Road with secondary, non-thoroughfare access, from The Folley to serve a limited number of dwellings'* however, as can be seen from the proposal, the main access for the estate is from The Folley with footpath only access to and from Great House Farm Road and Old Forge Road.
- 16.27 This departure from the policy has been met with almost an even mixture of support and objection from public consultations.
- 16.28 It is important to note that whilst the proposed layout does not comply with this policy, in visual terms it can be seen that the layout provides for 5 large and well detailed dwellings fronting but set back from The Folley. This in officer's opinion adequately retains the rural feel of this section of The Folley and will be wholly in keeping with the character of the immediate surroundings. The scheme does not comply with the policy because access is afforded to all 70 dwellings from this single access point, but there is no consequential harm to the character to the area that can be identified.
- 16.29 It is therefore important to consider the impact of the single access approach on highway safety. The question members must consider is, does the use of only one access to serve the entire development for vehicular traffic cause material harm to the highway network. The Transport Assessment that has accompanied the application has concluded that the visibility splays for the proposed access onto The Folley meet required standards in both directions and that the site access (onto The Folley) is more than sufficient to accommodate the proposal for 70 dwellings in terms of capacity. Overall, the Transport Statement considers the development can be accommodated through taking sole access from The Folley with no detriment to the network capacity or safety.
- 16.30 The Highway Authority ECC have assessed this scheme and the Transport Assessment that has been submitted and have no objection to the layout or the single vehicular access approach. On that basis, officers have not been able to identify any demonstrable harm from the departure to criterion (ii) of policy SS10. On that basis, the proposed departure from the policy in this instance is held to be acceptable. The highway authority has requested for some tweaks to highway geometry which the applicant has made and are currently under assessment by highways, the outcome of which and any conditions needed will be reported on the updates sheet and included.

**Officer note – Highways have since commented on the revised drawings stating no objections and recommended several conditions which will be included.**

#### Lack of Childrens Play Area

- 16.31 Criterion (iii) of policy SS10 requires areas of public open space, to include an equipped children's play area. The scheme provides ample public open space 13,389sqm far in excess of the adopted 10% of site area requirement however, it does not provide an equipped play area.
- 16.32 The play area has been intentionally omitted due to concerns from the Parish Council raised in their initial representation to the previous outline permission comments.
- 16.33 As the proposed S106 agreement secures a financial contribution towards the upgrade of the existing play area in Layer De La Haye, on balance this minor departure is held to be acceptable.

#### Rural Exception Site

- 16.34 Criterion (iv) of policy SS10 requires a masterplan demonstrating how the development will positively and comprehensively relate to the future delivery of a rural exceptions site (RES) on adjacent land.
- 16.35 As set out above, this scheme has taken a master planned approach and the outcome of this is the Rural Exception Site dwellings do not sit in an area that is outside of the settlement limits as they did in application 211393. The scheme before members comprises the same site area as the two outline permissions but has combined them into one full application that still achieves the same quantum of both market and affordable dwellings, including the Local Lettings pilot that was secured in the previous legal agreement.
- 16.36 The outcome is therefore a scheme which is technically a departure from the Local Plan by virtue of part of the site being located outside of the development boundary. In this instance, the master planned approach has delivered a high quality layout that will achieve a real sense of place befitting an area such as Layer De La Haye. On that basis the departure from the Development Plan is justified.

### **17.0 Planning Balance and Conclusion**

17.1 To summarise the application comprises a technical departure from the Adopted Development Plan. However, for the reasons as set out above, the departures do not cause identifiable demonstrable harm and the scheme proposed is a spacious and attractively laid out housing development with well-designed house types in the traditional idiom that will complement the existing housing stock in the vicinity. The

scheme will achieve a genuine sense of place and meets the Government's test of beauty as set out in the framework.

17.2 In terms of the planning balance and the **environmental role** of sustainability, it is accepted that the scheme will have a minor to moderate adverse impact on landscape interests. This is inherent to the introduction of built form within an undeveloped greenfield site and therefore unavoidable. It is also accepted that there is will a potential very minor impact on neighbouring amenity and an intensification on the highway network. It is however held that this scheme is a well-designed, beautiful development befitting the rural area.

17.3 In terms of the **economic role**, this scheme will be beneficial as new dwellings sustain new residents who will use local and Borough wide facilities and spend in the local economy. The scheme will also generate new Council Tax receipts and contribute to the New Homes Bonus.

17.4 In terms of the **social role** this scheme provides very convincing benefits, namely the provision of market housing, the provision of affordable housing and the facilitation of the Rural Exception Site in a comprehensive master planned manner. It is also noted that this scheme will also pilot the same local letting policy secured at outline stage.

17.5 Whilst clearly a departure from the plan, it is officers' opinion that the planning balance tips in favour of an approval.

## **18.0 Recommendation to the Committee**

18.1 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. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. Delegated authority to make non-material amendments to planning conditions as necessary. The Permission will also be subject to the following conditions:

### **1. ZAA - Time Limit for Full Permissions**

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.

### **2. The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers. (Full list of plans will be inserted here)**

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

3. In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. 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** – The site lies on or in the vicinity of filled land where there is the possibility of contamination.

4. No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.  
Reason: In order to ensure that suitable materials are used on the development in the interests of good design and visual amenity as there are insufficient details within the submitted planning application.

5. Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include window detailing (including details of the depth of reveal and any dormer features); rooflights to be used; doors, cills, lintels, arches, eaves, verges, ridge, brickwork /stone work detailing, chimneys; recessed/projecting/decorative brickwork; bays, porches, plinths; blank and faux windows; and any rainwater goods to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate. The development shall thereafter be implemented in accordance with the approved additional drawings.  
Reason: Insufficient detail has been submitted to ensure that the proposed works are of high quality design and that the character and appearance of the area is not compromised by poor quality architectural detailing.

6. No works shall commence (above ground floor slab level) until details (including position) of all external plant (including solar PV), extract ducts, vents, grilles and meter housings have been submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.  
Reason: In the interests of good design and visual amenity, as there are insufficient details within the submitted planning application.

7. Notwithstanding the details shown on the approved drawings, prior to their construction precise details of the position, type and composition of all boundary treatments enclosing individual plots shall be submitted to and approved, in

writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details

Reason: In the interests of visual amenity with regard to ensuring a consistent approach to legibility of the space and an appropriate quality of design is achieved across the site.

8. Notwithstanding the details shown on the approved drawings, no works shall commence (above ground floor cill level) until revised details of the proposed windows (size and disposition of glazing panels) have been submitted to and approved, in writing, by the Local Planning Authority. Fixed lights should reflect opening casements and vice versa, in terms of size and proportions of glazing panels and frame components. The development shall thereafter be implemented in accordance with the approved details.

Reason: To ensure a consistent approach is applied to the proposed dwellings in their entirety, in the interests of visual amenity and establishing an appropriate standard of design.

9. Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected on any public facing boundary unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

10. The garages hereby approved shall be retained for parking motor vehicles at all times and shall not be adapted to be used for any other purpose, including other uses ancillary to the residential use, unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: To retain adequate on-site parking provision in light of the under provision of off plot visitor parking and in the interest of highway safety.

11. The development shall not be occupied until such time as details of the provision for parking and storage of bicycles sufficient for all occupants of the proposed development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport

12. No development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a Construction Environmental Management Plan (CEMP). Ideally, strategic elements of the GI framework to conserve, enhance and restore where there are gaps are brought forward in phase one of the development, to create a landscape structure or evidence is shown that substantive GI is secured as early as possible in initial phases of delivery to allow early establishment. Therefore, a Construction Environmental Management Plan (CEMP) will be required to set out how



retained GI, such as existing boundary trees, hedges and vegetation will be protected during construction.

Reason: The phased implementation of new GI of the development construction will allow for the GI to mature and it will provide further benefit of reducing/buffering the aesthetic impact from the construction work.

- 13.** No development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a Construction Environmental Management Plan (CEMP). Ideally, strategic elements of the GI framework to conserve, enhance and restore where there are gaps are brought forward in phase one of the development, to create a landscape structure or evidence is shown that substantive GI is secured as early as possible in initial phases of delivery to allow early establishment. Therefore, a Construction Environmental Management Plan (CEMP) will be required to set out how retained GI, such as existing boundary trees, hedges and vegetation will be protected during construction.

Reason: The phased implementation of new GI of the development construction will allow for the GI to mature and it will provide further benefit of reducing/buffering the aesthetic impact from the construction work.

- 14.** No development shall take place until there has been submitted to and approved, in writing, by SuDS and landscape specialists at the Local Planning Authority a landscape ecological management and maintenance plan and work schedule for a minimum of 10 years. Although consideration of aligning through mandatory biodiversity net gain will be required where it will be expected for the habitat to be secured for at least 30 years via obligations/ conservation covenant.

Details should include who is responsible for GI assets (including any surface water drainage system) and the maintenance activities/frequencies.

We would also expect details on how management company services for the maintenance of GI assets and green spaces shall be funded and managed for the lifetime of the development to be included.

Reason: To ensure appropriate management and maintenance arrangements and funding mechanisms are put in place to maintain high-quality value and benefits of the GI assets.

Failure to provide the above required information before commencement of works may result in reducing the value of the development, becoming an undesirable place to live that may increase the impacts from climate change, such as flood risk or air pollution from the site.

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

Reason: To ensure the GI 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 the high-quality and multi-functional benefits of GI assets.

- 16.** No works shall take place until a Biodiversity Net Gain Management and Monitoring Plan is submitted to and approved in writing by the local planning authority. The Biodiversity Net Gain Management and Maintenance Plan shall

include 30-year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports.

The Biodiversity Net Gain Management and Maintenance Plan should cover:

- Details of the management and maintenance operations, actions and work schedule for years 1 – 5 and with broader management aims for the lifetime of the BNG commitment of 30 years.
- Proposals for monitoring needed to measure the effectiveness of management, including methods, frequency and timing.

Details of the roles and responsibilities for implementation and monitoring, as well as the legal, financial, and other resource requirements for BNG delivery, are secured.

- Including setting out the reporting procedures and options for remedial works and adaptive management to account for necessary changes in work schedule to achieve the required targets if needed.

The biodiversity uplift agreed upon in the Biodiversity Gain Plan/ Assessment shall be implemented in full for the entire 30-year period.

Reason: To ensure measurable net gains are being delivered and effectively maintained and in accordance with LPA's BNG Policy, allowing the LPA to discharge its duties under the NPPF (2023).

#### **17.ZPA – Construction Method Statement**

**18.** 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 and vibration;
- measures to control the emission of dust and dirt (for developments above 50 units a specific Dust Management Plan is required);
- a scheme for recycling/disposing of waste resulting from demolition and construction works (no waste materials should be burnt on the site);
- the appointment of a public liaison person to update residents on the development and deal with complaints, including dust and noise, contact details to be displayed at the site entrance (for developments above 50 units). 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.

## **19.ZPD - 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.

**20.** Prior to occupation of any of the dwellings, a scheme shall be submitted to and approved in writing by the Local Planning Authority providing details of the position and type of solar PV panels and or any other low carbon elements, for example but not limited to Air or Ground Source Heat Pumps to be installed on the dwelling. No dwellings may be occupied until the approved are installed and are in full working order.

Reason: To facilitate the move to lower carbon homes which is encouraged by policy CC1

**21.** All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Essex Ecology Services Limited, November 2018), Winter Bird Survey (Essex Ecology Service Limited, February 2022), Bat Activity Survey (Essex Ecology Services Limited, October 2019) and Reptile Survey (Essex Ecology Services Limited, May 2019) as already submitted with the planning application and agreed 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 Regulation 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

**22.** Prior to any works above slab level, 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) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

**23.** 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).

**24.** Prior to first occupation of the development hereby permitted, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify 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)

**25.** The development permitted by this planning permission shall be carried out and maintained in accordance with the approved Flood Risk Assessment and Surface Water Drainage Strategy, ref 2301-783, dated April 2023 as supplemented by Technical Drainage Note, ref IP-2301-783/TN01 dated 21/09/23, both by Ingent Consulting Engineers and the following mitigation measures detailed within the FRA:

- Infiltration testing in line with BRE 365 at locations of infiltration features. If infiltration rates are unsuitable, limiting discharge from the site to the 1/1yr greenfield rate for all storm events up to the 1/100yr +45% CC.
- Provide attenuation storage for all storm events up to and including the 1:100 year storm event inclusive of 45% climate change.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

- To ensure the effective treatment of surface water runoff to prevent pollution.
- 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.

**26.** 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 as approved.

Reason: The National Planning Policy Framework paragraph 163 and paragraph 170 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 this should be proposed.

- 27.** 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.

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

- a) A priority junction off The Folley to provide access to the proposal site. Junction shall have but not be limited to a minimum 43 metre visibility splay in both directions as measured along the nearside edge of The Folley's carriageway
- b) Upgrade to Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- c) Improvements to Footpath 3 Layer-de-la-Haye between the B1026 (High Road) and The Folley (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- d) Residential Travel Information Packs 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.

- 29.** The public's rights and ease of passage over Footpath 3 Layer-de-la-Haye and Footpath 32 Layer-de-la-Haye shall be maintained free and unobstructed at all times

Reason: To protect the Public Right of Way (PRoW) network in accordance with policy DM11 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

**30.** This permission shall not be exercised in addition to the extant permissions 211392 and 211393 granted by the Local Planning Authority on 18<sup>th</sup> October 2022 but shall be an alternative to that permission. Should one of the permissions be implemented the other permission shall not be implemented.

Reason: In order to ensure that the two permissions are not both implemented as this would be considered to be an overdevelopment of the site and the implications of such a proposal would need to be carefully considered.

## **19.1 Informatives**

19.1 The following informatives are also recommended:

### **ZT0 – Advisory Note on Construction & Demolition**

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

### **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via [www.colchester.gov.uk/planning](http://www.colchester.gov.uk/planning) or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

### **ZTB - Informative on Any Application With a Site Notice**

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester City Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

## **Landscape Informative**

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this available on this CBC landscape [webpage: https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169](https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169) under Landscape Consultancy by clicking the 'read our guidance' link)'.

## **Anglian Water Informative:**

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted.

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

## **SUDS Informative**

INFORMATIVES: Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed Suds which may form part of the future register, a copy of the Suds assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk). Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note. It is the applicants responsibility to check if they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners. The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside our area of expertise. 3 We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

## **Broadband Informative**

The developers are strongly encouraged to ensure the site is served by broadband in the interests of connectivity.

EV Charging points

Residential development should provide EV charging point infrastructure to encourage the use of ultra-low emission vehicles at the rate of 1 charging point per unit (for a dwelling with dedicated off road parking) and/or 1 charging point per 10 spaces (where off road parking is unallocated).

### **Highways Informatives**

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)