Colchester Borough Council

Independent Examination – Section 2 Colchester Borough Local Plan 2017-2033

Hearing Statement – Local Planning Authority

Main Matter 19 – Policies DM23 to DM25 – Flood Risk and Water Management, Sustainable Urban Drainage Systems and Renewable Energy, Water, Waste and Recycling

April 2021

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Are the Flood Risk and Water Management, Sustainable Urban Drainage Systems and Renewable Energy, Water, Waste and Recycling policies justified by appropriate available evidence, having regard to national guidance, and local context, and CLP 1?

DM23: Flood Risk and Water Management

19.1 Policy DM23 is justified and consistent with national policy and guidance. The policy takes account of the local context and CLP 1, particularly policy SP7.

19.2 The 2012 NPPF Paragraph 100 states that:

Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should be supported by Strategic Flood Risk Assessment and develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency and other relevant flood risk management bodies, such as lead local flood authorities and internal drainage boards. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by:

- *applying the Sequential Test;*
- *if necessary, applying the Exception Test;*
- *safeguarding land from development that is required for current and future flood management;*
- *using opportunities offered by new development to reduce the causes and impacts of flooding; and*
- *where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to facilitate the relocation of development, including housing, to more sustainable locations.*

19.3 Policy DM23 and the supporting text clearly outline that development should be directed away from areas of high flood risk in accordance with national policy and guidance. The Plan is supported by a Level 1 Strategic Flood Risk Assessment (SFRA) (EBC 4.32) which provides a strategic overview of flood risk across the Borough from

all sources and an individual site assessment of the risk of flooding for those sites identified through the Call for Sites process.

19.4 The policy also confirms that the Sequential Test (EBC 4.19) has been applied to inform the site allocations of the Plan and will be applied for any development sites outside of specific allocations. The Sequential Test Methodology developed by the Council has been informed by specific advice from the Environment Agency (EBC 4.18).

19.5 Following the Sequential Test, a Level 2 SFRA has been undertaken (EBC 4.6) to consider further the flood risk of 27 development sites, the University of Essex and the two Garden Communities which were proposed within Colchester Borough (Tendring Colchester Borders Garden Community being established in the CLP 1). The Level 2 SFRA concludes that for the majority of these sites, it is considered that the proposed types of development could be suitably designed to satisfy part 2 of the Exception Test (excluding Haven Road (COL44 and COL54) which have not been allocated for development in the CLP 2).

19.6 Policy DM23 requires developments to contribute or deliver flood defense/protection measures and/or flood mitigation measures to minisimise the risk of increased flooding within and off site in all flood zones. This element of the policy is supported by the Environment Agency.

19.7 Specific requirements for development proposals in regard to surface water flooding are included within policy DM23, as outlined in the Colchester Town Surface Water Management Plan 2013 (SWMP) (EBC 4.62). Since submission of the Local Plan, Essex County Council have produced the SWMP Action Plan 2018 Update (EBC 4.63). This supplements the SWMP 2013, and this document remains current. Through this update work, Critical Drainage Areas have been revised, and there are now 12 within urban Colchester. This factual update has been reflected in the Modifications schedule (CBC1.6). The SWMP Action Plan 2018 Update also provides revised property count figures and individual actions for each Critical Drainage Area.

19.8 As outlined in the SWMP Maps (EBC 4.64), the updated Critical Drainage Areas do not result in any allocations made within the CLP 2, now being considered at increased surface water flood risk.

19.9 Modifications (CBC1.6) are proposed to the supporting text to update references to the latest national data resources and in response to the Environment Agency representation seeking clarity to the reference to NPPG Table 3. This wording has been agreed within a Statement of Common Ground (SoCG) with the Environment Agency (SCG2).

19.10 A further modification is proposed to ensure consistency with the NPPF to demonstrate when proposals must be accompanied by a site-specific flood risk assessment for each flood zone.

19.11 It is considered that these modifications to the supporting text provide greater clarity to the national and local context for flood risk in Colchester.

19.12 CLP 1 Policy SP7 requires environmental sustainability to be considered throughout the design of developments. This is echoed in policy DM23 through the requirement of permeable materials and landscaping sought for driveways, hardstanding or paving. The requirement for at least one ‘at source’ sustainable urban drainage measure for developments that result in a net increase of impermeable area also enables early consideration in designing of flood management solutions to be green and environmentally friendly solutions.

DM24: Sustainable Urban Drainage Systems

19.13 Policy DM24 is justified and consistent with national policy and guidance. The policy takes account of the local context and CLP 1, particularly policy SP7.

19.14 NPPF 2012 paragraph 103 states that:

> *"When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:*
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> - *within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and*
> - *development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems."*

19.15 Policy DM24 provides the local context to ensure surface water flood risk is not increased on or off site as a result of development. The requirements of the policy are underpinned by the CIRIA SuDS Manual and Essex County Council Sustainable Urban Drainage (SuDS) Design Guide. The policy seeks to ensure best practice is achieved to manage surface water flood risk across Colchester.

19.16 In their role as Lead Local Flood Authority, Essex County Council updated the Essex SuDS Guide in Summer 2020. This is now an online resource and replaces the April 2016 version. By being online this enables more regular updates in line with best practice and national guidance, similar to the Essex Design Guide which launched online in 2018. The fundamentals (notably run off rate, storage, water quality treatment and consideration of climate change) remain unchanged from the 2016 edition. The most recent changes to the SuDS Guide are the addition of a solar array section in February 2021 and additional wording to pumping stations still requiring restriction to greenfield runoff rates in March 2021. A changes log has recently been added to the online resource to identify when updates are made to the SuDS Guide and the extent of these.

19.17 Although updates have been made to the SuDS Guide since submission of the Local Plan, the fundamental principles of the Guide remain unchanged. Policy DM24 provides flexibility by requiring consideration of the *Essex County Local Planning Authority's SuDs Design Guide (and as updated).* Therefore, no modifications are required to Policy DM24.

19.18 Representations to policy DM24 were received from Anglian Water and the Environment Agency; both of which outline their support for the policy.

19.19 CLP1 Policy SP7 ensures that flood mitigation measures are considered through design to enable multi-functional flood solutions. This is reiterated in Policy DM24 through the consideration of the surface water hierarchy, to manage surface water as close to the surface as possible and the final resort being alternative methods of discharge. Policy DM24 also requires treatment prior to discharge to prevent water pollution and to consider opportunities for drainage in the design process to provide amenity space, enhance biodiversity and manage pollution. This is all in accordance with the Essex County Council SuDS Design Guide and national guidance.

DM25: Renewable Energy, Water, Waste and Recycling

19.20 Policy DM25 recognises that to tackle climate change, it is important for the Council to promote energy, water, waste and recycling efficiency and renewable energy. Policy DM25 is consistent with Policy CC1: Climate Change, which sets out how a low carbon future will be achieved.

19.21 Policy DM25 is justified and consistent with national policy and guidance. The policy takes account of the local context and CLP 1, particularly criteria in policies SP 7, SP 8 and SP 9:

"Include measures to promote environmental sustainability including addressing energy and water efficiency, and provision of appropriate water and wastewater and flood mitigation measures including the use of open space to provide flora and fauna rich sustainable drainage solutions; (Policy SP 7)

(xi) Secure a smart and sustainable approach that fosters climate resilience and a 21st century environment in the design and construction of the garden community to secure net gains in local biodiversity, highest standards of energy efficiency and innovation in technology to reduce the impact of climate change, the incorporation of innovative water efficiency/re-use measures (with the aim of being water neutral in areas of serious water stress), and sustainable waste and mineral management. (Policy SP 8 criterion xi)

(22) Provision of appropriate design and infrastructure that incorporates the highest standards of innovation in energy efficiency and technology to reduce impact of climate change, water efficiency (with the aim of being water neutral in areas of serious water stress), and sustainable waste / recycling management facilities. (Policy SP 9 criterion 22)

19.22 Paragraph 17 sets out the NPPF's core planning principles and one of these principles is: *"support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy)".*

19.23 Paragraph 93 of the NPPF recognises that: "*Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure*."

19.24 Paragraphs 97 and 98 of the NPPF state:

"To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should:

- *have a positive strategy to promote energy from renewable and low carbon sources;*
- *design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts;*
- *consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources;*
- *support community-led initiatives for renewable and low carbon energy, including developments outside such areas being taken forward through neighbourhood planning; and*
- *identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.*

When determining planning applications, local planning authorities should:

- *not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and*
- *approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas."*

Renewable energy

19.25 Consistent with Policy CC1, the Council will support development that helps to reduce carbon emissions and exceed energy efficiency requirements set out in Building Regulations. Policy DM25 makes reference to the Home Quality Mark and BREEAM. As explained in Hearing Statement 3 in relation to Policy CC1, the Council does not have the evidence base to require buildings to exceed Building Regulations in terms of energy efficiency. The Council will offer their support and encouragement to applicants who choose to exceed Building Regulations in terms of energy efficiency, but this is not something that the Council can require.

19.26 In accordance with paragraphs 17 and 93 of the NPPF, the Council, through Policy DM25, will encourage the use of renewable energy. Policy DM25 states that proposals for renewable energy projects will be supported. Policy DM25 provides guidance for applicants of renewable energy schemes that is consistent with paragraphs 97 and 98 of the NPPF. Whilst Policy DM25 is supportive of renewable energy schemes, the policy is designed to ensure that adverse impacts, including cumulative landscape and

visual impacts, will be mitigated and schemes that adversely affect nature conservation sites and heritage assets will only be supported in exceptional circumstances.

19.27 The Draft Schedule of Recommended Modifications (CBC1.6), sets out the following modifications to Policy DM25 to address representations from Historic England and Natural England (see SCG1):

"District Heating Networks and Community led renewable energy initiatives at appropriate locations in the Borough**, which will need to be subject to a Habitats Regulations Assessment and if necessary an Appropriate Assessment,** to help reduce Colchester's carbon footprint." (sixth paragraph)

"Renewable energy schemes with potential for adverse effects on internationally **or nationally** designated **nature conservation sites,** sites or nationally designated landscapes (Dedham Vale AONB) **and heritage assets**, will only be supported in exceptional circumstances,…." (seventh paragraph)

19.28 Reference to the guidance note 'Designing solar farm renewable energy development' and National Policy Statement are recommended for deletion, as set out in the Schedule of Main Modifications, as it is not considered necessary to refer to these documents.

Water

19.29 The 2016 amendments to Building Regulations introduced a minimum water efficiency standard into the Building Regulations for the first time for new homes. It requires that the average water usage of a new home (including those created by a change of use) is no more than 125 litres per person per day or 110 litres per person per day if required as part of the planning permission.

19.30 Council's have the option to set additional technical requirements exceeding the minimum standards required by Building Regulations in respect of access, water and space standards. Council's should establish a clear need for the tighter water standard based on:

- existing sources of evidence.
- consultations with the local water and sewerage company, the Environment Agency and catchment partnerships.
- consideration of the impact on viability and housing supply of such a requirement.

19.31 Policy DM25 requires new homes to meet the tighter standard of 110 litres per person per day. A condition will be attached to the planning consent requiring this tighter standard to be met.

19.32 Sustainable development is at the heart of planning. The environmental dimension of sustainable development set out in the NPPF includes using natural resources prudently and mitigating and adapting to climate change. The NPPFs policies expect LPAs to adopt proactive strategies to adapt to climate change that take full account of water supply and demand considerations and Section 19(1A) of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to include in their Local Plans: "*policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change*". The housing optional technical standards states that early engagement between LPAs and water companies can help ensure the necessary water infrastructure is put in place to support new development and LPAs may also consider whether a tighter water efficiency requirement for new homes is justified to help manage demand.

19.33 It is predicted that climate change will reduce the available water resources in Colchester as rainfall patterns change to less frequent, but more extreme, rainfall events in the summer months, and winter rainfall patterns become more frequent and intense.

19.34 The Council has engaged early with Anglian Water Services and Affinity Water. A Water Cycle Study (WCS) (EBC 4.3) forms part of the evidence base for the Local Plan. The objectives of the WCS are to identify any constraints on planned housing growth that may be imposed by the water cycle and how these can be resolved and provide a strategic approach to the management and use of water which ensures that the sustainability of the water environment in the Borough is not compromised.

19.35 The Colchester WCS (EBC 4.3) concluded that, allowing for the planned resource management of Anglian Water Services South Essex Resource Zone, Colchester would have adequate water supply to cater for growth over the plan period. However, the WCS identified that there are long term limitations on further abstraction from the raw water resources supplying the Borough and that there is a drive to ensure the delivery of sustainable development for Colchester. Hence there are key drivers requiring that water demand is managed for all new development in order to achieve long term sustainability in terms of water resources. The WCS sets out ways in which demand for water as a result of development can be minimised without incurring excessive costs or resulting in unacceptable increases in energy use.

19.36 The WCS includes three recommendations in relation to water supply to ensure that the Colchester Local Plan considers potential limitations (and opportunities) presented by the water environment and water infrastructure on growth, and phasing of growth:

- WS1 – Water Efficiency in new homes In order to move towards a more 'water neutral position' and to enhance sustainability of development coming forward,

a policy should be developed that ensures all housing is as water efficient as possible, and that new housing development should go beyond Building Regulations, ideally to 110 l/h/d. Non-domestic buildings should as a minimum reach 'Good' BREEAM status.

- WS2 – Water Efficiency Retrofitting In order to move towards a more 'water neutral position', a policy could be developed to carry out a programme of retrofitting and water audits of existing dwellings and non-domestic buildings with the aim to move towards delivery of 25% of the existing housing stock with easy fit water savings devices

- WS3 – Water Efficiency Promotion In order to move towards a more 'water neutral position', a policy could be developed to establish a programme of water efficiency promotion and consumer education, with the aim of behavioural change with regards to water use.

19.37 Policy DM25 requires all new residential development to incorporate water saving measures in line with the tighter optional requirement of Part G2 of national Building Regulations of 110l/p/d. This will contribute to mitigating the risk of shortages in the public water supply and contribute to achieving sustainable development. Policy CC1 encourages sustainable design and construction measures. The Council has contributed to the third recommendation in the WCS through the production of a householder guide to sustainability and energy efficiency improvements.

19.38 The South East of England gets less rainfall than other parts of the country. Affinity Water's Water Resource Management Plan states that between July 2016 and April 2017 the South East received 33% less rainfall than the national average. The area covered by Anglian Water Services and Affinity Water, which includes Colchester borough, was classified in 2013 as an area of serious water stress.

19.39 In their representation to the Local Plan, Anglian Water Services and the Environment Agency both support the tighter water standard (see also SCG2). Anglian Water Services said:

"*In relation to water efficiency we understand that the Environment Agency considers that the area served by Anglian Water is an area of serious water stress as defined in the Environment Agency 2013 'Water stressed areas final classification report'. Therefore we would support the optional water efficiency standard being applied within the Colchester Local Plan area*." (representation reference 6297, 6334)

19.40 The Environment Agency said:

"*We are supportive of the thrust of this policy and the supporting text. We are pleased to see the inclusion of developments being required to incorporate water saving*

measures in line with Part G2 of national Building Regulations of 110/l/h/d.

Paragraph 15.148

We welcome the recognition that the continual supply of water is likely to become increasingly important in the light of climate change, particularly as Colchester lies in a water stressed area. Martin Hurst, a former Defra Water Director, states that 'where there is a problem, water issues should be built into Local Plans'. The incorporation of water saving measures, as required under Policy DM25, represents a positive step in the right direction.

Paragraph 15.149

We specifically support the findings of the Water Cycle Study that development at sites shown to have potentially limited sewer network capacity should be subject to pre-development enquiry with Anglian Water. In the absence of any enquiry, development should not be granted whether on a full or outline basis."

19.41 In preparing a Statement of Common Ground with the Environment Agency, the Council and Environment Agency agreed that reference to the Joint advice to Local Planning Authorities: Optional Higher Water efficiency standard for new housing (January 2019 updated February 2020) prepared by Anglian Water, Environment Agency and Natural England should be referred to in the supporting text to policy DM25 (SCG2). This recommended modification is included in the Draft Schedule of Main Modifications (CBC1.6).

19.42 No objections raising concerns about viability, or indeed any representations were submitted to Policy DM25 from developers. The Housing Standards Review Cost Impact report (2014) prepared for DCLG advises that the cost of introducing the optional higher water standard would be between £6-£9 per dwelling.

19.43 Against this backdrop, a tighter water efficiency requirement for new homes in the borough is entirely justified to help manage water demand.

Waste and Recycling

19.44 Policy DM25 refers to the Council's waste reduction and recycling targets. The policy supports the Council's aspiration to increase recycling rates across the Borough. The policy supports proposals for sustainable waste management facilities and expects best practice technologies to optimize opportunities for minimizing waste and recycling to support the Council's aspiration.

Do policies DM23 to DM25 provide a clear direction as to how a decision maker should react to a development proposal?

DM23: Flood Risk and Water Management and DM24: Sustainable Urban Drainage Systems

19.45 Policies DM23 and DM24 are considered to provide a number of criteria which are to be considered in any proposal to ensure development is not and does not cause an increased risk of flooding, from any type.

19.46 Policy DM23 clearly states that development will only be supported where the proposal meets the requirements of both national policy and local policy contained with the Local Plan.

19.47 Given the specialist nature of flood risk management and sustainable urban drainage, when determining a development proposal, it will be essential for the decision maker to consider the advice provided from statutory consultees including Anglian Water, the Environment Agency and Essex County Council (as Lead Local Flood Authority). This is standard practise in the planning application process.

DM25: Renewable Energy, Water, Waste and Recycling

19.48 Policy DM25 provides support for renewable energy schemes and support for waste minimisation and recycling. The policy requires new residential development to meet the tighter optional requirement of Part G2 of the Building Regulations.

19.49 Policy DM25 is clear that renewable energy proposals should be located and designed to minimise increases in noise levels and mitigate landscape and visual impacts. The policy makes reference to Transport Assessments and to the requirement for conditions to ensure that the site is restored. It is clear that proposals for renewable energy proposals should be supported, but that adverse effects should be mitigated.

19.50 Policy DM25 is clear that renewable energy proposals that adversely affect the Dedham Vale AONB, international and national nature conservation sites or heritage assets will only be supported in exceptional circumstances. This is consistent with the level of protection given to these sites and consistent with policies ENV1 and ENV4.