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# Planning Statement Addendum

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Land Behind Broadfields, Wivenhoe

Taylor Wimpey UK Limited

February 2022

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## 1 Introduction

- 1.1 This Planning Statement Addendum has been prepared in support of a full planning application submitted to Colchester Borough Council (CBC) on behalf of Taylor Wimpey UK Limited for the development of the Land behind Broadfields Wivenhoe.
- 1.2 A full planning application was submitted in March 2021 (LPA ref. 210965) for the following development:
- “Construction of residential development (Use Class C3), access, landscaping, public open space, and associated infrastructure works.”*
- 1.3 Following the statutory consultation period and various post submission meetings held with planning officers at CBC there have been a series of amendments made to the application. The description of development remains the same.
- 1.4 Following recent discussions with CBC this addendum comprises a summary of the latest amendments made to the scheme addressing the remaining outstanding matters.

### Supporting Documents

- 1.5 This Planning Statement Addendum should be read in conjunction with the following documents which have been updated to address the full range of material planning considerations:
- Updated Application Drawing Pack, dated February 2022, prepared by JCN Architects;
  - Updated Design & Access Statement Addendum, dated February 2022, prepared by JCN Architects;
  - Updated Landscape and Visual Impact Appraisal Addendum, dated February 2022, prepared by Arc;
  - Updated Phase II Environmental Site Investigation Report, dated February 2022, prepared by Ensafe Consultants; and
  - Addendum Landscape Masterplan, Drawing No. 20.5101.08 Rev E, prepared by Andrew Hastings Landscaping.
- 1.6 In addition, the following submitted reports are still relevant:
- Transport Assessment, dated March 2021, prepared by Stomor
  - Archaeological Desk Based Assessment, dated March 2021, prepared by RPS Group

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- Tree Survey, Arboricultural Impact Assessment and Tree Protection Measures, dated March 2021, prepared by Haydens Arb Consultants;
- Ecological Impact Assessment, dated March 2021, prepared by SES;
- Information to Support Habitat Regulations Assessment, dated March 2021, prepared by SES;
- Biodiversity Metric 2.0 Calculation, assessment date March 2021, prepared by SES
- Flood Risk Assessment, dated March 2021, prepared by Stormor;
- Response to the LLFA Conditions to Planning Application No. 210965, dated 1st June 2021, prepared by Stomor;
- Health Impact Assessment, dated March 2021, prepared by Hodkinson;
- Statement of Community Involvement, dated March 2021, prepared by Taylor Wimpey;
- Air Quality Assessment, dated March 2021, prepared by Ardent; and
- Noise Assessment, dated March 2021, prepared by Ardent

## Structure of the Statement

1.7 The structure of this Statement is as follows:

- **Section 2** provides a summary of the discussions held between the applicant and CBC post submission;
- **Section 3** provides a summary of the proposed amendments to the previous development proposals;
- **Section 4** sets out the planning policy framework for the site and appeal decisions relevant to this application;
- **Section 5** provides an assessment of the material planning considerations arising from the updated proposals; and
- **Section 6** presents our conclusions with respect to the proposals.

1.8 In addition, the following appendices are attached to this addendum:

- Appendix 1: Constraints plan prepared by JCN; and

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- Appendix 2: Wem Appeal Decision (PINS Ref. APP/L3245/W/20/3263642)



## 2 Post Submission Discussions

- 2.1 The applicant entered into a series of post submission discussions with officers at CBC following the statutory consultation period and re-consultations with relevant consultees following submission of amendments. These amendments are a direct response to the discussions held.
- 2.2 Meetings were held 26th May 2021, 24th August 2021, 18th October 2021, 22nd October 2021, 23rd November (case officer site visit), 2nd December 2021, 18th January 2022.
- 2.3 Discussions focussed on the following areas:
- Site layout, urban design matters and landscaping, including the provision of residential to the north of the pylons;
  - Location and provision of the sports pitches;
  - Housing mix and affordable housing provision;
  - Architectural approach;
  - Responses to statutory consultee comments;
  - Potential planning obligations.
- 2.4 Taylor Wimpey has considered the comments made in relation to the above, and has revised the proposals where possible. Details of the amendments are set out in Section 3 below.

## 3 Summary of Proposed Amendments

3.1 This full planning application seeks planning permission for the land at Broadfields site allocation, for:

*“Construction of residential development (Use Class C3), access, landscaping, public open space, and associated infrastructure works.”*

3.2 Full details of the design amendments are contained in the Design Statement addendum prepared by JCN Architects. The key amendments to the existing proposals are summarised in this section.

### Layout

3.3 The layout has been developed following detailed analysis of the Neighbourhood Plan requirements, the site’s context, the site’s considerable constraints, prevailing planning policy and guidance, as well as discussions with CBC officers, Town Council, stakeholders and the public.

3.4 The layout for the proposed scheme is based on the Neighbourhood Plan which allocates the land for residential development, open space and sports pitches and play areas to the south. However some necessary deviations are made as a result of technical constraints necessitating some residential development to the north of the electricity pylons.

3.5 The residential area extends to 3.51 ha, of which 0.7ha sits to the north of the pylons and 2.81 located to the south of the pylons. The residential area is off set from the sites boundaries in response to the site’s numerous constraints and to provide adequate separation with the neighbouring houses to the west.

3.6 A surface water attenuation basin has been positioned at the lowest point of the site in the south eastern corner and has been integrated into the landscaping scheme. The Local Wildlife Site to the east is not being developed as part of proposal.

3.7 2 ha of land for sports pitches are proposed at the northern end of the site adjacent to existing facility at the Broad Lane Sports Ground, taking advantage of the existing pavilion, changing facilities and car park. The provision of new footpaths and cyclepaths on the Elmstead Road frontage creates a safe and traffic-free route to the Broad Lane Sports Ground as well as the first stage of the strategic route to Croquet Gardens (route D in the Neighbourhood Plan). Connection to Broadfields gives existing residents traffic-free access to the new public open space, the cycleway link and the sports facilities.

### Architectural Approach

3.8 Following discussions with design officers at CBC, the appearance of the proposed scheme has been updated to be more contemporary in style, but using traditional typologies.



3.9 This is in response to the more modern character of the surrounding area of northern Wivenhoe. The proposed scheme will create a transition between post-war, suburban streets seen in the residential dwellings along Richard Avenue to the west of the site and the open land uses and countryside that enclose the town to the north and east of the site. Traditional building forms using aesthetic features such as pitched roofs, projecting porches, brickwork detailing and varying window styles have been incorporated into the proposed dwellings.

3.10 The proposed materials are traditional and includes variation in facing bricks, roof tiles and other finishes, enlivened by boarding, render, bay windows, a detailed roofscape, chimneys and door canopy detailing. Subtle variations between materials and their boundary treatments are employed across the site.

### Unit Mix

3.11 The 120 dwellings will comprise of 2, 3 and 4-bedroom houses, responding to the Neighbourhood Plan, as follows:

	Total
2 Bed	45 (37.5%)
3 Bed	50 (41.7%)
4 Bed	25 (20.8%)
Total	120 (100%)

**Figure 2.1: Proposing Housing Mix**

3.12 To provide a comparison, the previous housing mix comprised 46 x 2-beds (38.4%), 49 x 3-beds (40.8%) and 25 x 4 beds (20.8%).

3.13 Both private and affordable dwellings include the provision of family-sized units 3 bed or larger units including three-bedroom units.

### Affordable Housing

3.14 A range of tenures will be provided to suit a variety of needs, including private sale, shared ownership and affordable rent. The amended scheme provides the following mix of affordable housing:



	Affordable Rent	Shared Ownership	Total
<b>2 Bed</b>	6	3	<b>9</b>
<b>3 Bed</b>	9	1	<b>10</b>
<b>4 Bed</b>	4	1	<b>5</b>
<b>Total</b>	<b>19</b>	<b>5</b>	<b>24</b>

*Figure 2.2: Proposed Affordable Housing Mix*

- 3.15 The proposed housing mix comprises of 96 private sale units and 24 affordable units, which equates to 20% on-site affordable housing provision. The affordable housing to be provided as shared ownership, and affordable rent. The proposal delivers a tenure split of 79:21 in favour of Affordable Rent.
- 3.16 In comparison, the previous affordable housing mix comprised 17 x 2-beds, 5 x 3-beds and 2 x 4 beds, delivering a tenure split of 63:37 in favour of affordable rent.

## Landscaping

- 3.17 The landscape proposals for the development have been designed by Andrew Hastings Landscaping and full details of the landscaping proposals are set out in the Landscape Masterplan and the Design and Access Statement submitted in support of the application.
- 3.18 The landscape strategy has been a key element of the design process in order to ensure that the landscaping proposals compliment the built architecture proposed for the site and enhance its ecological benefit and biodiversity. The landscaping proposals comprise three elements: private amenity spaces, public open spaces and 2ha of land for sports pitches. This approach incorporates the principles established by the Neighbourhood Plan.
- 3.19 The landscape proposals have been updated to accommodate comments made by CBC during post submission discussions.
- 3.20 The hard and soft landscaping creates the setting for the buildings and highlights the public realm on the street frontages, through the traffic-free route around the eastern side of the town and in the new open space as an integral part of the appearance of the proposed development.



- 3.21 In detail planting proposals within the residential sections of the site have been developed to reinforce the street scene as well as to create individual identity within different areas of the scheme. In this respect, the street tree planting and frontage hedgerows provide the landscape framework along the primary and secondary routes and spaces. Different streets are assigned different tree species as well as single species hedges. This allows identifiable changes in the street scene and a sense of place to be identified. Along the tertiary routes, as well as within the smaller housing cells, peripheral areas of the scheme and where built form abuts open space, a pallet of shrubs, ornamental grasses and herbaceous planting has been selected to create the individuality and variation in texture, colour and form. This also reflects a change to either smaller scale or a softer character of development type.
- 3.22 The updated landscape proposals now show a canopy spread of tree species at 25 years and further information has been provided on the tree pits, planting depths and specifications.

## Contamination

- 3.23 At the request of CBC, Taylor Wimpey appointed Ensafe consultants to conduct further investigation across the areas of the proposed playing fields, children's playground and public open spaces, which had not been covered by previous studies.
- 3.24 The investigations attempted to determine the risks to all end users appropriately, including non-residential end user purposes as opposed to only a residential end use by ascertaining information regarding the chemical characteristics of the underlying materials. Therefore, the study focused on assessing the environmental quality of the soils and groundwater across these areas, to demonstrate these are suitable for their intended use, and assess the ground gas regime for the site.
- 3.25 A site investigation was undertaken between 6th and 13th October 2021, with the aim to assess the environmental quality of the materials on site for the proposed sport pitch, amenity areas and landscaping strips across the development area. The investigation comprised the excavation of 36No. trial pits excavated to a max depth of 1.65m bgl, and 5No. window sample holes excavated to a max depth of 2.7m bgl. There were 4No. monitoring wells installed with standpipes and a programme of 6No. gas/groundwater monitoring visits, as well as environmental laboratory testing.
- 3.26 It is considered a 'Low' risk that harm could arise to human health and/or environmental receptors from contaminative issues arising as a result of the current and past site use and off-site activities.
- 3.27 No specific remedial measures are anticipated to be required to protect human health, environmental receptors and render the site suitable for its intended residential use.
- 3.28 Further details of the Phase II Environmental Site Investigation Report prepared by Ensafe can be found in Section 5.

## 4 Updates to Planning Policy Context

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals are determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 4.2 Material considerations include the National Planning Policy Framework (NPPF), Planning Practice Guidance and the development plan, comprising all the development plans documents and the neighbourhood plan (if made).
- 4.3 At the local level, the CBC's Development Plan comprises:
- CBC Core Strategy (adopted 2008, amended 2014);
  - CBC Development Policies DPD (adopted 2010, amended 2014);
  - CBC Site Allocations DPD (adopted 2010);
  - CBC Proposals Maps (adopted 2010);
  - Colchester Borough Local Plan 2013-2033 Section 1 (adopted 2021); and
  - Wivenhoe Neighbourhood Plan (Adopted 2019).
- 4.4 The formal adoption of the Section 1 Local Plan by CBC has the effect of replacing, in part, a number of the strategic policies contained within the Core Strategy. The current adopted Plan will be replaced, in full, on the formal adoption of Section 2 of the Local Plan which contains further specific local policies and proposals.

### National Planning Policy Framework

- 4.5 At the national level, the Government published its Revised National Planning Policy Framework (NPPF) on July 2021. The NPPF provides an overarching framework for the production of local policy documents and at the heart of this document is a presumption in favour of sustainable development.
- 4.6 Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). Sustainable development is defined through three, interdependent objectives:



- **An economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.
- **A social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with assessable services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and
- **An environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

4.7 At the heart of the NPPF (2021) is a presumption in favour of sustainable development, which should be seen as a golden thread running through both the plan-making and decision-taking process.

4.8 This means approving development proposals that accord with the development plan without delay, and where there are no relevant development plan policies, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of development. As follows (Paragraph 11):

- Approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or
- The policies which are most important for determining the application are out-of-date, granting permission unless:
  - The application of policies in this framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

4.9 The NPPF footnote relating to paragraph 11 sets out what is considered by ‘out-of-date’. The footnote states: “This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.”

4.10 A key objective of the NPPF is to significantly boost the supply of homes to ensure that a sufficient amount and variety of land can come forward where it is needed, and that the needs of groups with specific housing requirements are addressed.



- 4.11 NPPF paragraph 74 requires Local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirements set out in adopted strategic policies.
- 4.12 NPPF paragraph 13 states that Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies.
- 4.13 In support of the NPPF the Government has published an online guidance resource, known as the Planning Practice Guidance (NPPG). This covers a range of topics including procedural matters, policy application matters, extended guidance on certain topics and clarifications on processes. Where relevant, specific notes are referred to within this Planning Statement.

#### Housing Delivery Test

- 4.14 Housing Delivery Test 2021 demonstrates that CBC currently can demonstrate 134% delivery against its housing requirements (measured over the preceding three years), the Council's 2021 Housing Land Supply Annual Position Statement (August 2021) claims that CBC can demonstrate 5.75 years housing land supply. As such, the presumption in favour of sustainable development is not applied.

#### **Local Planning Policy**

##### Colchester Core Strategy (adopted 2008, amended 2014)

- 4.15 The Core Strategy was adopted in 2008 and formally amended in July 2014 as a result of a review. The strategy establishes a long-term strategy to manage development, provide services, deliver infrastructure and create sustainable communities.
- 4.16 The Spatial Vision highlights that whilst the focus of new development will be on Colchester Town, Wivenhoe is one of three main district settlements which will accommodate about 1600 homes.

##### Colchester Development Policies DPD (adopted 2010, amended 2014)

- 4.17 The Colchester Development Policies DPD was adopted in 2010 and was also revised in July 2014 as a result of the Council's Focused Review of its Local Plan. The Development Policies DPD includes detailed policies across the key themes in support of the Core Strategy. It sets out the specific criteria against which planning applications for the development and use of land and buildings will be considered and provides local standards for the development of sites.
- 4.18 The relevant detailed Development Policies are referred to in this Statement where relevant.



## CBC Proposals Map (adopted 2010)

4.19 The CBC proposals map provides the following designations over the site:

- Open Space (Policy PR1)
- Retention of Open Space and Indoor Sports Facilities (Policy DP15)

## Colchester Site Allocations DPD (adopted 2010)

4.20 The Site Allocations DPD was adopted in 2010 at the same time as the Development Policies DPD. The site is not allocated in the Site Allocations DPD.

## Colchester Local Plan 2013-2033 Section 1

4.21 Colchester Council, by decision at the meeting of Full Council on Monday 1 February 2021, has formally adopted the Colchester Borough Local Plan 2013-2033: North Essex Authorities' Shared Strategic Section 1 Plan.

4.22 The 'Section 1 Plan' was prepared jointly by Colchester Borough Council, Braintree District Council and Tendring District Council, – the 'local planning authorities' (LPAs) collectively known as the 'North Essex Authorities' (NEAs) to form the first part of each of the authorities' respective Local Plans.

4.23 The formal adoption of the Section 1 Local Plan by Colchester Borough Council has the effect of replacing, in part, a number of the strategic policies contained within the Colchester Borough Core Strategy, adopted in 2008 and subject to a Focused Review in 2014. The Colchester Borough Local Plan will be replaced, in full, on the formal adoption of Section 2 of Local Plan which contains further specific local policies and proposals applicable to the Colchester Borough only.

## Wivenhoe Neighbourhood Plan

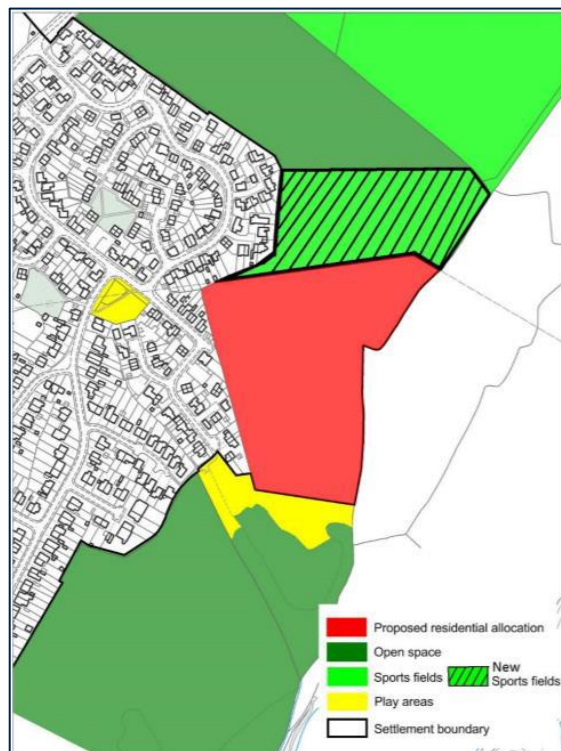
4.24 Wivenhoe Town Council adopted the Wivenhoe Neighbourhood Plan in 2019. The Plan conforms generally to the strategic policies and proposals of the Development Plan.

4.25 The site is allocated under Policy WIV29 of the Neighbourhood Plan as set out in **Figure 4.1** below. The site allocation total 11.58 hectares and is allocated for a **minimum of 120 dwellings** subject to a number of conditions as follows:

- i. Minimum of 45 dwellings with one or two bedrooms;
- ii. No more than 25 dwellings shall have four bedrooms or more;
- iii. Dwellings should be designed for older residents or active retirees should preferably be built to the Lifetime Homes standard;

- iv. 20% of all properties to be affordable housing;
- v. it can be demonstrated that the development will not have a detrimental impact on wildlife, as evidenced through an appropriate wildlife survey;
- vi. vehicle access into the residential part of the site shall be provided from Richard Avenue;
- vii. 2 hectares of land to the northern part of the site adjacent to Broad Lane Sports Ground as indicated on Figure 35 shall be provided for additional sports pitches;
- viii. a dedicated footpath / cycleway along Elmstead Road to link up Broad Lane Sports Ground with the built-up part of Wivenhoe shall be provided;
- ix. a shared-use footpath and cycle track provided directly linking the development to the facilities at Broad Lane Sports Ground and linking with the public footpath to the south of the site;
- x. a contribution shall be paid towards the creation of a combined footpath/cycle track linking the new development to the public footpath (FP No. 14) from The Cross;
- xi. contributions towards open spaces, sports, recreational facilities and community facilities shall be required in line with Borough Policies current at the time any application for planning permission is made.

**Figure 4.1: Extract from Neighbourhood Plan: WIV 29 Allocation**





## Emerging Local Policy

### Colchester Local Plan 2013-2033 Section 2

- 4.26 The Colchester Local Plan 2013-2033 Section 2 is at an advanced stage. The Planning Inspector has now confirmed the main modifications he considers necessary to the Section 2 Colchester Local Plan, to make the plan sound. A six week public consultation on the Main Modifications and associated documents took place, from 4 October to 18 November 2021.
- 4.27 Section 2 of the emerging draft Local Plan includes Policy SS16 which identifies the settlement boundary for Wivenhoe and notes that the Wivenhoe Neighbourhood Plan identifies sites for 250 new dwellings in Wivenhoe.
- 4.28 It is anticipated that Section 2 of the Colchester Local Plan will be adopted early in 2022.

## Other Relevant Guidance

### Affordable Housing SPD (adopted 2011)

- 4.29 CBC adopted their Affordable Housing SPD in 2011. The purpose of this Supplementary Planning Document (SPD) is to give clear guidance on the Council's expectations for the provision of affordable housing and the process for delivering this.
- 4.30 CBC are currently preparing an updated Affordable Housing SPD. This document underwent consultation between January and March 2020. The consultation document notes that allocations within the Emerging Local Plan are expected to comply with Emerging Policy DM8 which requires 30% affordable housing. This SPD will replace the adopted Affordable Housing SPD, when formally approved.

### The Essex Design Guide

- 4.31 The Essex Design Guide (2018) provides detailed design advice on the layout, design and spatial principles of new residential and mixed use development. The EDG version used by CBC is the 1997 edition and the recent 2018 version is used as a reference guide to help create high quality places with an identity specific to its Essex context.





## 5 Planning Assessment of Amendments

- 5.1 This section of the Addendum provides justification in support of the updated planning and design approach, with reference to the planning policy framework and material considerations set out in the previous sections.
- 5.2 The NPPF sets out clearly at Paragraph 11 that development proposals that accord with an up to date development plan should be approved without delay. In this instance the site is allocated for development and development should be approved without further delay.

### Neighbourhood Plan Conformity

- 5.3 The Table provided at Figure 5.1 provides an assessment of the proposed scheme against the requirements of the Wivenhoe Neighbourhood Plan.

**Figure 5.1: Compliance with Wivenhoe Neighbourhood Plan Allocation**

Wivenhoe Neighbourhood Plan Requirements	Proposed Development
i. Minimum of 45 dwellings with one or two bedrooms	Requirement met: 45 (37.5%) of total units proposed will be provided as 2 bedroom units.
ii. No more than 25 dwellings shall have four bedrooms or more	Requirement met: 25 (20.8%) of total units proposed will be provided as 4 bedroom units.
iii. Dwellings should be designed for older residents or active retirees should preferably be built to the Lifetime Homes standard	Requirement met: The proposed dwellings are designed in accordance with current best practice contained in BS8300:2018 (Design of an accessible and inclusive built environment) and Building Regulations Approved Document M (2016 edition). All of the proposed affordable housing will meet Part M4 (2) Building Regulations and 39 of the market housing will too. 1 affordable unit will also meet Part M4 (3) Building Regulations.
iv. 20% of all properties to be affordable housing	Requirement met: 24 (20%) of the 120 units will be provided as affordable.
v. it can be demonstrated that the development will not have a detrimental impact on wildlife, as evidenced through an appropriate wildlife survey;	Requirement met: An Ecological Impact Assessment and Habitat Regulation Assessment have been prepared by SES and were submitted as part of the original submission. These considered that any impacts from the proposed development upon protected and notable habitats and species will be fully mitigated in line with relevant wildlife legislation and national and local planning related to biodiversity for the site will be achieved.
vi. vehicle access into the residential part of the site	Requirement met: Vehicle Access will be provided from Richard Avenue.

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shall be provided from Richard Avenue;	
vii. 2 hectares of land to the northern part of the site adjacent to Broad Lane Sports Ground as indicated on Figure 35 shall be provided for additional sports pitches;	Requirement met: The proposals include the provision of 2 hectares of land for new sports pitches.
viii. a dedicated footpath / cycleway along Elmstead Road to link up Broad Lane Sports Ground with the built-up part of Wivenhoe shall be provided;	Requirement met: Dedicated footpaths and cycleway has been proposed leading to the new sport pitches and with future connection points beyond the site.
ix. a shared-use footpath and cycle track provided directly linking the development to the facilities at Broad Lane Sports Ground and linking with the public footpath to the south of the site;	Requirement met: The scheme proposes a new shared footpath and cycle way which runs to the rear of the existing houses on Alexandra Drive and through the new open space, forming part of the link around the eastern side of the town.
x. a contribution shall be paid towards the creation of a combined footpath/cycle track linking the new development to the public footpath (FP No. 14) from The Cross;	Negotiations on the S106 heads of term ongoing.
xi. contributions towards open spaces, sports, recreational facilities and community facilities shall be required in line with Borough Policies current at the time any application for planning permission is made.	Negotiations on the S106 heads of term ongoing.



- 5.4 Although density is not specified within Policy WIV 29, it states that 4.06 hectares of the land is suitable for the erection of a minimum of 120 dwellings of mixed typologies. This equates to a minimum density of 30 dwellings per hectare for the residential land allocated on the site.
- 5.5 The proposed development will have a residential density of 34 dwellings per hectare (dph) with 120 dwellings on only 3.5 hectares of land. The scheme has slight increase in density against the baseline set by the Neighbourhood Plan. This minor departure is nominal as the proposal is to be provided on a smaller area of land than the neighbourhood plan allows for.
- 5.6 It is considered that the proposed density is acceptable as more land is given over to public open space, which is a benefit to the scheme and surrounding area.

#### Re-distribution of the Allocated Areas within Figure 35

- 5.7 Figure 35 is supported by a map which sets out where residential, open space, sports fields, new sports fields and play areas should be provided. The proposal broadly aligns with these locations, and deviations are explained below.
- 5.8 Paragraph 12 of the NPPF sets out that “*Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*” In this case the development plan is considered to be up to date; therefore the LPA needs to consider whether the material considerations which we set out below indicate that the plan should not be followed. The applicant is of a clear view that material considerations do exist and these are set out below.
- 5.9 Post submission discussions have centred around the positioning of the residential area proposed against that identified within Figure 35 of the Neighbourhood Plan. In particular the provision of residential to the north of the east – west pylons. In addition the re-positioning of the land for sports pitches to the north of the wider site, adjacent to the existing sports pitches was discussed. However, this is considered to be acceptable, due to the better synergy that this land would have with existing sporting facilities between Elmstead Road and Brightlingsea Road.
- 5.10 The residential area identified in red on Figure 35 of the WIV 29 Allocation extends to 4.06ha for a minimum of 120 dwellings. However, the primary material consideration is that the residential area allocated is severely constrained and only 2.81ha is in fact developable. This is a significant material consideration when assessing the proposal.
- 5.11 A plan showing the constraints is attached at **Appendix 1**. To summarise they comprise:

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- Along the northern boundary is it not possible to build up to the pylons due to their being a no build zone of either side.
- The eastern boundary is characterised by trees and the root protection zones extend into the residential area.
- A large proportion of the southern part of the site is dedicated to the national playing fields association (Fields in Trust), and therefore cannot be developed.
- Along the western boundary, the developable area is reduced further by no build zones along the existing water easements
- In addition the engineers have advised that an attenuation basin should be provided in the south eastern corner to address the technical drainage and flood requirements which arise with residential use.

5.12 This demonstrates that Figure 35 was not fully tested when the plan was made, as it was not based on any technical analysis or any comprehensive legal checks to support the developability of the land.

5.13 In turn this renders the residential requirements of the Neighbourhood Plan unfeasible within the developable area (2.81 hectares) within the residential allocation that remains. If a minimum of 120 units were considered on a smaller parcel, this would result in a minimum density of 42.7 dwellings per hectare- completely at odds with the surrounding residential character. This is would be even more unfeasibility if the necessary design requirements for residential use and the local and regional level were taken into account.

5.14 As such, the absence of any detailed assessment in setting the site's residential requirements is a very important material consideration.

5.15 On this basis, the constraints analysis has demonstrated that it would be wholly unreasonable to prevent development which doesn't strictly accord with the Neighbourhood Plan allocation.

5.16 We have reviewed the evidence base to the Wivenhoe Neighbourhood Plan; there is a notable absence of any evidence which explains why the residential area as shown in Figure 35 to only be to the south of the pylons. Clearly this is an arbitrary line and doesn't represent a physical boundary line. Furthermore the extensive built area to the west extends north of the pylons. This too is a very important material consideration.

5.17 The recent appeal decision (PINS Ref. APP/L3245/W/20/3263642) at the Land off Lowe Hill Road, Wem, Shropshire is of relevance to this site. This application sought outline planning application for the erection of up to 100 dwellings (Use Class C3) and associated access, public open space, drainage, infrastructure, earthworks and ancillary enabling works, with all matters except for access reserved. A copy of the appeal decision is attached **at Appendix 2.**



- 5.18 Similar to the Broadfields site, the site is allocated in the Shropshire Local Plan. The site allocation had a gas main running through it, which required a 15m buffer either side (total 30m), like us the constraints significantly reduced the developable area of the allocation. To compensate for this reduction in developable area, the proposed residential development extended beyond the boundaries of the site allocation. As a result of the site's constraints, 24% of the land subject to the WEM appeal, lay outside of the allocation, within open countryside. Refusal by the LPA were on grounds of landscape and visual harm as well as biodiversity.
- 5.19 In comparison, this application uses 3.51 ha of land for residential uses whereas the allocation allows for a larger area of 4.06ha. However, the available land south of the pylons is only 2.81 ha, so 0.7 ha is located to the north of the pylons. This equates to 17% of the area of site allocation's residential area. This is a smaller percentage than what the Inspector allowed at Wem.
- 5.20 To provide assurance to officers as part of the decision taking process an updated LVIA has been prepared by Arc. Alongside this JCN undertook revisions to the layout of the scheme (as summarised below).

#### LVIA Assessment

- 5.21 Paragraph 20 of the NPPF stipulates that policies should set out an overall strategy for the design of quality places and make sufficient provision for the conservation and enhancement of the natural, built and historic environment including landscapes and green infrastructure.
- 5.22 An addendum to the originally submitted Landscape and Visual Impact Assessment (LVIA) prepared by Arc has been submitted in support of this application. Following comments received following the submission, an amendment was made to the scheme proposals and the LVIA updated accordingly which referenced the scheme changes and the updates to the National Planning Policy Framework (NPPF).
- 5.23 The Arc addendum has been prepared to further consider the particular effects of the submitted scheme proposals on land to the north of the power lines and which falls outside the area previously assessed by the original LVIA. To assist in considering the visual effects of development to the north of the power line, a series of verified views have been prepared which illustrate the visibility of the proposed development from 6 locations.
- 5.24 In summary, the proposed development will only be visible from locations within close proximity to it. There is some visibility from public rights of way and public open spaces, however these are not located in designated landscapes or in locations identified as being sensitive. The new houses will be of a similar scale and form to those within the adjacent Broadfields housing estate and buildings have been designed to reflect the architectural styles and materials traditionally found in this part of Essex. Whilst the new housing will appear into parts of the view where currently there is no built form, once planting has been established, which will assist in assimilating buildings into the view, there will be no adverse effects on visual amenity.

- 5.25 In addressing the effects of the proposed layout which extends beyond the land allocated within the Neighbourhood Plan, the introduction of houses to the north of the power line will inevitably change the extent of houses visible, however again this will only be a change experienced from very limited locations. The view from the path along Elmstead Road will see the housing extend further east however this will be a limited and localised change for a short stretch of path and it is not considered that the additional houses will result in any harm to the visual amenity and from some location. Similarly, whilst from some locations housing to the north of the pylons will be visible from within the Crosspit Local Nature Site, the nature of the change will be very limited and will not notably change the experience of walking through the area compared with a development that only extended to the south of the pylons.
- 5.26 Overall, it is considered that the impact of the proposal is wholly appropriate and demonstrates that the design approach taken is suitable. Therefore in accordance with NPPF paragraph 20.

## Design Matters

- 5.27 The NPPF requires the delivery of well-designed places, it affords the whole of Chapter 12 to this matter. Paragraph 126 sets out: “The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.
- 5.28 Adopted Development Policies DPD Policy DP1 provides an overarching design and amenity policy which requires development to be of high standards and avoid unacceptable impacts on amenity. It also requires proposals to demonstrate social, economic and environmental sustainability. Six main areas are addressed in policy:
- i) respecting and enhancing the character of the site and its surroundings;
  - ii) using layout to ensure pedestrian, cycle and public transport priority;
  - iii) protecting existing amenity;
  - iv) creating safe and secure environments;
  - v) respecting or enhancing the landscape;
  - vi) incorporating necessary infrastructure and services, including sustainable drainage systems, and
  - vii) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.



- 5.29 Adopted Development Policies DPD Policy DP12 relates to standards for new housing, setting out criteria for achieving high standards for design, construction and layout. Where criteria is silent, reference to the Essex Design Guide should be made.
- 5.30 Neighbourhood Plan Policy WIV29 sets out specific design requirements for the site, in terms of site capacity, site layout dwellings standards, access, and landscaping matters.

## Layout

- 5.31 The proposed layout remains consistent with the land use areas set in the Neighbourhood Plan allocation. The scheme uses land for residential development, open space, sports pitches and play areas to the south (outside the application boundary).
- 5.32 The area allocated for residential development is defined by the constrained nature of the site. The scheme is divided by a no-build zone, created by a line of pylons through the middle of the site. The northern boundary of the residential area of the neighbourhood plan allocation roughly runs along the pylons. The allocation does not consider this no-build zone or the requirement for surface water drainage easement running along the south western boundary and to the rear of the existing properties in Richard Avenue and Henrietta Close, and the attenuation basin required in the south eastern part of the residential area and the Root Protection Zone along the eastern boundary. As such, once these constraints are considered, the developable area as per the neighbourhood plan cannot deliver the minimum 120 units with the mix requirements as required by the plan.
- 5.33 In response to this, the residential area of the scheme will extend north of the pylons in order to provide the minimum number of dwellings. This approach has been discussed with officers and key stakeholders, and it is understood why these adjustment has had to be made. In addition, the size of the residential area proposed is smaller than the allocation allows for, 3.5 hectare versus allocation for 4.06 hectares, which is considered to be a positive response to the constraints that the site has presented.
- 5.34 The site is accessed from Richard Avenue on the western boundary and turns almost immediately into the site to make efficient use of the land allocated for residential. The proposed scheme will be laid out in a perimeter form with a Primary Street running east-west through the middle of the site connecting with shared surface roads and private drives that lead to the outer edges. The perimeter form will provide the opportunity for natural surveillance of the undefended space along the side and rear of the existing properties, as well as creating a continuous “public face” for the scheme.



- 5.35 Sports pitches are proposed at the northern end of the site as an extension to existing facility at the Broad Lane Sports Ground, taking advantage of the existing pavilion, changing facilities and car park. The provision of new footpaths and cyclepaths on the Elmstead Road frontage creates a safe and traffic-free route to the Broad Lane Sports Ground as well as the first stage of the strategic route to Croquet Gardens (route D in the neighbourhood plan). Connection to Broadfields gives existing residents traffic-free access to the new public open space, the cycleway link and the sports facilities.
- 5.36 The scheme also proposes a new shared footpath and cycle way runs to the rear of the existing houses and through the open space, forming part of the link around the east side of the town that is created in the Neighbourhood Plan. The proposed layout provides a clear and legible network of streets.
- 5.37 The approach to the site layout is in accordance with prevailing policy, including the Neighbourhood Plan, as well as responding to relevant national, regional and local policies and guidance.

## Appearance

- 5.38 The appearance of the proposed scheme is influenced by the character of the surrounding area of northern Wivenhoe, as has been subject to post submission discussions with CBC. The scheme seeks to define a distinct character, but responds sensitively to its location at the edge of the settlement, particularly because it will be the backdrop to long views from the extended Broad Lane Sports Ground, the new public open space, and Elmstead Road – houses on the north side of the residential area will be the first part of the town that can be seen from Brightlingsea Road.
- 5.39 Traditional building forms and materials can be found throughout Wivenhoe, such as pitched roofs, projecting porches, brickwork detailing and varying window styles. A number of these details have been analysed and incorporated into the proposed dwellings in a contemporary manner, reflecting the traditional Essex vernacular in the context of current standards, construction techniques and materials.
- 5.40 The dwellings will be constructed with modern materials that use the minimum of energy and resources in their production. These accord with the current standards and regulations and, in some cases exceed them, to meet the required levels of quality, safety and energy efficiency. Modern methods of construction will be employed wherever possible, including an element of off-site manufacturing, delivering an efficient construction process and ensuring that the new homes will be ready for occupation in a timely manner.
- 5.41 The proposed materials are traditional and includes a single facing brick and roof tile and a contrasting brick band, enlivened by boarding, render, bay windows, a detailed roofscape, and door canopy detailing.
- 5.42 On the whole the approach to the appearance, accords with the NPPF's aspiration to respond to character, as we all adopted Development Policies DPD Policy DP1.



## Landscaping

- 5.43 The NPPF requires landscaping to contribute towards making developments visually attractive (paragraph 130).
- 5.44 Paragraph 131 states that trees make an important contribution to the character and quality of urban environments, and can help to mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined Unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate
- 5.45 Core Strategy Policy SD2 requires development to provide the necessary open space to need community needs arising from proposals and support the wider community.
- 5.46 The proposed development incorporates: private amenity spaces, allocated open space (to be identified as SANG) and an extension of the sports pitches to the north of the site, in addition to a significant amount of landscaping across the residential element of the scheme.
- 5.47 5.61 Andrew Hastings Landscape consultants has updated their landscaping strategy to support the application. The strategy will ensure that all areas of landscaping are attractive and high quality for new and existing residents to enjoy. The strategy includes additional information regarding the proposed arboriculture in response to officer comments.
- 5.48 In summary, the proposed strategy is consider to accord with the aspirations of the NPPF, Core Strategy and the Neighbourhood Plan.

## **Housing Matters**

- 5.49 The NPPF recognises that to create sustainable, inclusive and diverse communities, a mix of housing based on demographic trends, market trends and the needs of different groups should be provided.
- 5.50 At the local level, adopted Core Strategy Policy H3 states that all development should be inclusive and accommodate a diverse range of households. It states that proposals should be guided by an appraisal of community context and housing need. The SHMA 2015 sets the change required for the size of market housing required within each tenure noting that CBC requires the following mix:
- 1-bed: 2.2%
  - 2-bed: 26.1%
  - 3-bed: 47.5%
  - 4-bed: 4.2%
  - 4+ bedroom houses: 5%



5.51 In addition to this, part i Neighbourhood Plan Policy WIV29 requires the proposals to provide a minimum of 45 dwellings to be one or two bedrooms and part ii requires no more than 25 of the dwellings to be four bedrooms.

	Affordable (Affordable Rent)	Affordable (Shared Ownership)	Private	Total
2 Bed	6	3	36	45 (37.5%)
3 Bed	9	1	40	50 (41.7%)
4 Bed	4	1	20	25 (20.8%)
<b>Total</b>	<b>19</b>	<b>5</b>	<b>96</b>	<b>120 (100%)</b>

Figure 5.2: Proposed Housing Mix

5.52 To provide a comparison, the previous housing mix comprised 46 x 2-beds (38.4%), 49 x 3-beds (40.8%) and 25 x 4 beds (20.8%).

5.53 Similar to the previous scheme, the amended proposal provides a good mix of new homes, and accords within the specific site requirements set out in the site allocation Policy WIV 29. Taylor Wimpey has also considered their market intelligence alongside the SHMA with regards to the provision of 1 bed units and units larger than 4 bed, which concluded that for this site that these unit sizes wouldn't be appropriate.

### Affordable Housing Statement

5.54 In accordance with the requirements of the Affordable Housing SPD this section details out the affordable housing provision proposed.

5.55 The NPPF does not set any specific policy requirements in relation to affordable housing, but requires local planning authorities to ensure that their policies meet the full, objectively assessed needs for market and affordable housing.

5.56 Adopted Core Strategy Policy H3 which seeks to secure a mix of housing types and tenures and Policy H4 requires the provision of 20% affordable housing in new housing schemes. Part iv of Neighbourhood Plan Policy WIV29 requires 20% of all properties to be affordable or that percentage relevant in policy at the time of the application being submitted. Now adopted Stage 1 Local Plan does not replace adopted Core Strategy H4 (as per Appendix A of the Stage 1). The emerging Section 2 Policy DM8 seeks 30% of new dwellings to be delivered as affordable housing.

5.57 Given that Section 2 Policy DM8 is not yet adopted, the application is therefore to be considered against the 20% Policy target as per the clarification in Neighbourhood Plan regarding target at the point of submission.

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5.58 The adopted and emerging Affordable Housing SPG states that the affordable housing mix should be no less than 80% affordable rented and no more than 20% intermediate.

5.59 The amended scheme provided the following mix of affordable housing:

	Affordable Rent	Shared Ownership	Total
2 Bed	6	3	9
3 Bed	9	1	10
4 Bed	4	1	5
Total	19	5	24

*Figure 5.3: Proposed Affordable Housing Mix*

5.60 In comparison, the previous housing mix comprised 17 x 2-beds, 5 x 3-beds and 2 x 4 beds, delivering a tenure split of 63:37 in favour of affordable rent.

5.61 The amended proposal delivers a tenure split of 79:21 in favour of Affordable Rent. Following post submission discussions, CBC's Affordable Housing Officer requested that the affordable housing mix be proportionate to the private sale mix and the tenure should be split 80:20 (rented: shared ownership) as in accordance with the adopted and emerging Affordable Housing SPD.

5.62 Although this tenure split marginally departs from the adopted and emerging Affordable Housing SPD, this departure is de minimus. On the whole the tenure split represent a considerable improvement on the previously submitted scheme for meeting an identified need for a higher proportion of rented accommodation in CBC whilst also meeting the need for shared ownership housing. The mix of the rented units has also been amended to proportionally reflect the private unit mix.

5.63 On the basis of the above the affordable housing provision is considered to accord with prevailing policy requirement, namely Policy H3 which seeks to secure a mix of housing types and tenures.

## Contamination

5.64 Paragraph 174 of the NPPF states that planning policies should contribute to and enhance the natural and local environment by remediating and mitigating contaminated land.

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- 5.65 Paragraph 183 of the NPPF stipulates that planning policies and decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This paragraph goes further stating that planning policies and decision should ensure there is adequate site investigation information, prepared by a competent person, is available to inform these assessments.
- 5.66 At the local level, policy DP1 of the Colchester Development Policies DPD states that all development must be designed to a high standard, avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability. Development proposals must demonstrate that they have undertaken appropriate remediation of contaminated land.
- 5.67 At the request of CBC following consultee comments, Taylor Wimpey appointed Ensafe consultants to conduct further investigation across the areas of the proposed playing fields, children's playground and public open spaces, which had not been covered by previous studies.
- 5.68 The investigations attempted to determine the risks to all end users appropriately, including non-residential end user purposes as opposed to only a residential end use by ascertaining information regarding the chemical characteristics of the underlying materials. Therefore, the study focused on assessing the environmental quality of the soils and groundwater across these areas, to demonstrate these are suitable for their intended use, and assess the ground gas regime for the site.
- 5.69 A site investigation was undertaken between 6th and 13th October 2021, with the aim to assess the environmental quality of the materials on site for the proposed sport pitch, amenity areas and landscaping strips across the development area. The investigation comprised the excavation of 36No. trial pits excavated to a max depth of 1.65m bgl, and 5No. window sample holes excavated to a max depth of 2.7m bgl. There were 4No. monitoring wells installed with standpipes and a programme of 6No. gas/groundwater monitoring visits, as well as environmental laboratory testing.
- 5.70 Ground conditions found on site included Topsoil up to 0.35m bgl overlying Cover Sands primarily to the northern half of the site, and the Kesgrave Catchment Subgroup primarily to the southern half of the site, to a max depth of 2.70m bgl. Groundwater was not encountered during the site investigation nor in the current monitoring wells during subsequent visits.
- 5.71 Ground gas levels recorded to date suggest a Characteristic Situation 1 (CS1) - 'Very Low Risk' would be an appropriate for the site, with no gas protection measures required for the proposed development. No contaminative issues have been identified across the development area, as all contaminants of concern were found either below analytical limits of detection or below its respective assessment criterion for land under public open space near residential housing.

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5.72 It is considered a 'Low' risk that harm could arise to human health and/or environmental receptors from contaminative issues arising as a result of the current and past site use and off-site activities.

5.73 No specific remedial measures are anticipated to be required to protect human health, environmental receptors and render the site suitable for its intended residential use. The proposals are when considered against the policy requirements are therefore considered to be acceptable with regards to contamination.



## 6 Updated Conclusion

- 6.1 This Planning Statement Addendum has been prepared in support of a full planning application submitted to Colchester Borough Council (CBC) on behalf of Taylor Wimpey UK Limited for the development of the Land behind Broadfields Wivenhoe.
- 6.2 Following the statutory consultation period and various post submission meetings held with planning officers at CBC there have been a series of amendments made to the application. The application is also accompanied by a suite of updated application documents that demonstrate how the amended proposals have addressed the points raised by CBC and requests for further information.
- 6.3 The description of development has not changed from the original submission, and planning permission is sought for the following development proposals:

*“Residential development comprising the construction of 120 residential dwellings (Use Class C3), public open space, landscaping and associated infrastructure”*

- 6.4 The proposed development will result in a number of key planning benefits, including:
- The development of an allocated site will contribute towards meeting identified housing targets;
  - Delivery of 120 high quality new homes;
  - Creation of new job opportunities during the construction phase of this scheme;
  - An appropriate mix of unit sizes, types, accessibility and tenure, including 20% affordable homes at a policy compliant tenure split of 79% affordable rent and 19% shared ownership, a minimum of 45 dwellings with one or two bedrooms and no more than 25 bedrooms with four bedrooms as in accordance with the site allocation.
  - High quality residential dwellings which accord with design standards;
  - All houses will benefit from their own private amenity space which will be of an appropriate size;
  - Provision of a significant area of new public open space, including the provision of 2 hectares of land for new sports pitches;
  - Significant planting and landscaping across the site and wider site to protect and encourage wildlife and biodiversity;
  - Provision of vehicular access from Richard Avenue;
  - All dwellings provided with dedicated parking and cycle parking provision;
  - Provision of new pedestrian and cycle routes which also lead to the new sport pitches and with future connection points beyond the site;
  - The architecture and materials will reflect the character and appearance of the wider area;

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- A package of financial and non-financial planning obligations will be negotiated with the Council.

6.5 This Statement has assessed the material considerations arising from the amended proposals against the NPPF and the prevailing planning policy framework and has demonstrated that the scheme complies with the relevant national and local planning policy and guidance, namely the Neighbourhood Plan. The scheme has also appropriately responded to the requests of CBC and other statutory consultees. We therefore respectfully request that this reserved matters application is approved without delay.

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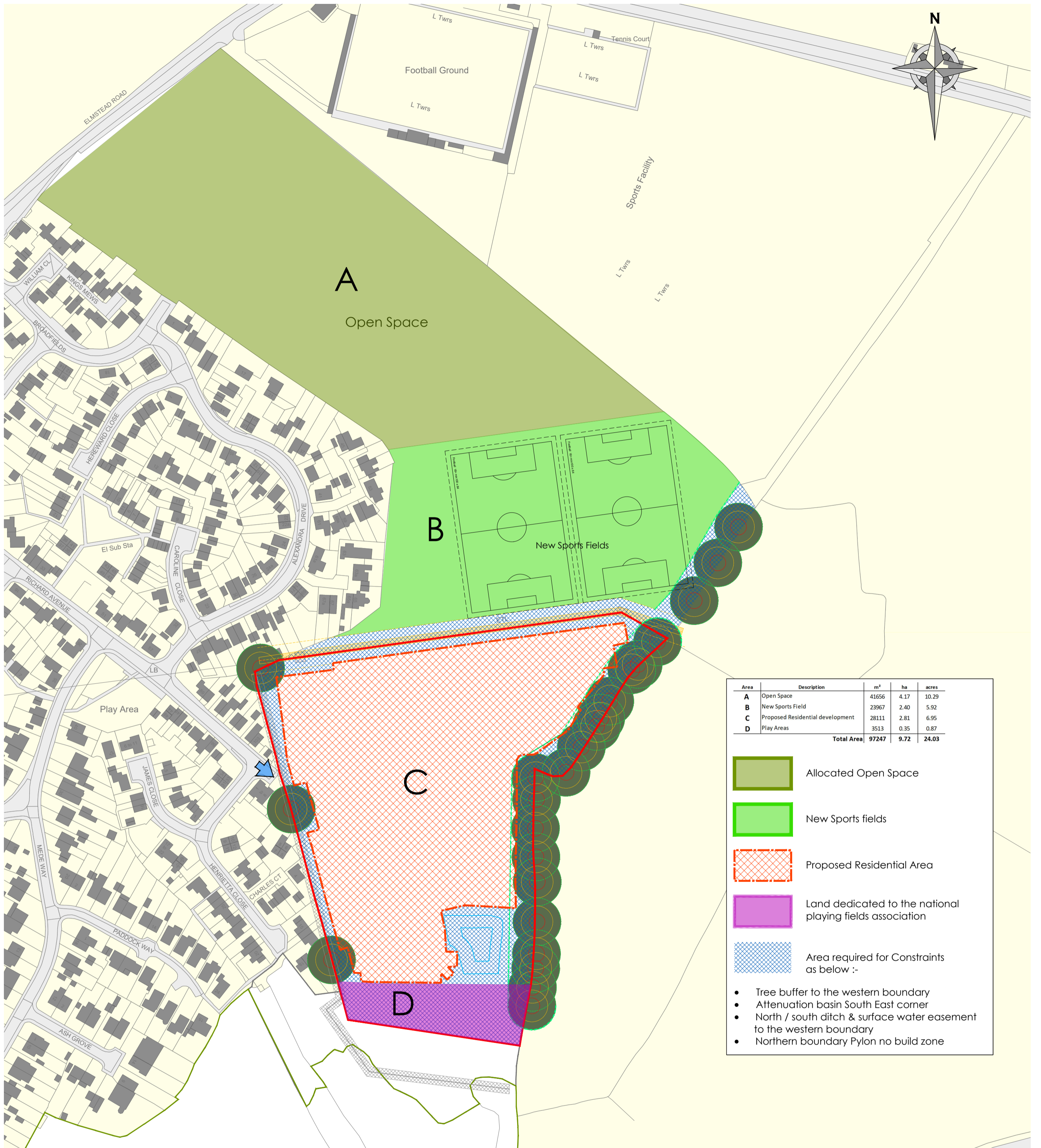
Taylor Wimpey UK Limited

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## Appendix 1: Constraints plan prepared by JCN





Area	Description	m <sup>2</sup>	ha	acres
A	Open Space	41656	4.17	10.29
B	New Sports Field	23967	2.40	5.92
C	Proposed Residential development	28111	2.81	6.95
D	Play Areas	3513	0.35	0.87
<b>Total Area</b>		<b>97247</b>	<b>9.72</b>	<b>24.03</b>

	Allocated Open Space
	New Sports fields
	Proposed Residential Area
	Land dedicated to the national playing fields association
	Area required for Constraints as below :-

- Tree buffer to the western boundary
- Attenuation basin South East corner
- North / south ditch & surface water easement to the western boundary
- Northern boundary Pylon no build zone



Project:-  
 Wivenhoe, Land South of Elmstead Road, off Richard Avenue  
 Description:-  
**Proposed revised Allocation Plan**

Scale:-  
 NTS @ A2  
 Date:-  
 Nov 2021  
 Drg no:-  
 TW027-AP-05  
 Revision:-  
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## Appendix 2: Wem Appeal Decision (PINS Ref. APP/L3245/W/20/3263642)



## Appeal Decision

Site Visit made on 2 November 2021

**by Martin Chandler BSc, MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 January 2022**

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### **Appeal Ref: APP/L3245/W/20/3263642**

#### **Land off Lowe Hill Road, Wem SY4 5UR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr John Tootell on behalf of Metacre Limited against the decision of Shropshire Council.
  - The application Ref 20/01054/OUT, dated 4 March 2020, was refused by notice dated 12 June 2020.
  - The development proposed is Outline planning application for the erection of up to 100 dwellings (Use Class C3) and associated access, public open space, drainage, infrastructure, earthworks and ancillary enabling works. All matters except for access reserved.
- 

### **Decision**

1. The appeal is allowed, and outline planning permission is granted for the erection of up to 100 dwellings (Use Class C3) and associated access, public open space, drainage, infrastructure, earthworks and ancillary enabling works. All matters except for access reserved, at Land off Lowe Hill Road, Wem SY4 5UR, in accordance with application Ref: 20/01054/OUT, dated 4 March 2020, and subject to the conditions in the attached schedule as well as the provisions within the completed Section 106 legal agreement.

### **Applications for Costs**

2. Applications for costs have been made by Metacre Limited against Shropshire Council, as well as by Shropshire Council against Metacre Limited. These applications are subject to a separate decision.

### **Preliminary Matter**

3. Following the submission of the appeal, a revised National Planning Policy Framework (the Framework) was published. The main parties were consulted in relation to this matter, and any comments received have been factored into my assessment of the appeal.

### **Procedural Matters and Main Issue**

4. When first lodged, the appellant requested that the appeal be heard by way of an Inquiry. However, due to the issues under consideration, a Hearing was eventually scheduled for 2 November 2021.
5. The original planning application was refused on the basis of two reasons. The first refusal reason related to landscape and visual harm, as well as harm to local biodiversity. However, in support of their appeal, evidence has been provided by the appellant to overcome these matters. The Council, as well as

other interested parties, have had the opportunity to fully appraise this information, and in preparation for the planned Hearing, the agreed Statement of Common Ground confirmed that the Council no longer wanted to rely on the first refusal reason.

6. I note that there has been objection to the proposal by third parties, as well as Wem Town Council, however, these parties have also had the opportunity to comment on the additional evidence. Accordingly, I am satisfied that the additional evidence provided by the appellant should be accepted to aid my assessment of the appeal, and that in taking this course of action, interested parties have not been compromised.
7. The additional information is thorough and has been suitably scrutinised, including by a qualified Ecologist on behalf of the Council. I note the ongoing concerns presented by Wem Town Council, however, no substantive or compelling evidence to challenge the agreed findings of the Appellant and Council has been provided. Accordingly, on the basis of the evidence before me, I have no reason to disagree with the revised stance of the Council.
8. The second reason for refusal related to insufficient justification and information being provided for the development of land that is located beyond the housing allocation. Accordingly, the outstanding main issue is whether the location of the appeal site is suitable for the development proposed, having regard to the requirements of local and national policy.

## **Reasons**

9. The majority of the appeal site is allocated for housing through the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev). The allocation, WEM003, is referred to as Land off Pyms Road and makes provision for 100 houses. The SAMDev also states that the design of the site may include additional land for community facilities. Despite this allocation, the western-most portion of the appeal site is located beyond the land identified within the SAMDev.
10. As identified above, based on the additional information provided by the appellant, the Council is satisfied that the proposal would not give rise to any unacceptable landscape or biodiversity harm. The proposal seeks outline planning permission so specific details regarding these matters can be suitably controlled at the Reserved Matters stage. Accordingly, the Council's concerns now only manifest themselves in the additional land located to the west of the appeal site. This land is not allocated and is not located within a defined settlement boundary. As a consequence, for the purposes of local policy, this portion of land is located within the countryside.
11. Policy CS3 of the Shropshire Local Development Framework: Adopted Core Strategy (2011) (CS) relates to the Market Towns and Other Key Centres in the district. Wem is identified within the policy, and amongst other things, the Policy confirms that balanced housing and employment, of an appropriate scale and design that respects each town's distinctive character and is supported by improvements in infrastructure, will take place within the towns' development boundaries and on sites allocated for development.
12. In refusing planning permission, the Council have also referred to Policy CS5 of the CS and Policies MD2 and MD7a of the SAMDev. Policy CS5 of the CS

requires that new development will be strictly controlled in accordance with national planning policies protecting the countryside. Policy MD2 of the SAMDev requires amongst other things new development to consider design of landscaping and open space holistically as part of the whole development, including natural and semi-natural features. Policy MD7a relates to the managing of housing development in the countryside and states that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters.

13. I note the wording of Policy CS3 of the CS, however, in my judgement, when read as a whole, local policy is consistent with the Framework. That is to say it promotes development within settlement boundaries and on allocated sites but does not specifically preclude other development. Indeed, the housing allocation itself acknowledges that additional land may be included, albeit for community facilities. As a consequence, the local policy framework is such that development in the countryside should be strictly controlled, having due regard to the environment in which it would be located. It is therefore in this context that the appeal should be assessed.
14. Based on the evidence before me, following the allocation of WEM003, a major gas pipe was identified as crossing the site. The size of the pipeline brings with it an easement requirement of 15 metres to either side, and therefore introduces a substantial no-build zone within the allocated parcel of land. The Council recognise this gas main as a constraint on the site, and on the basis of the evidence before me, I have no reason to disagree.
15. The size of the no-build zone across the site has a demonstrable impact on the developable space within the allocated land. As a consequence, rather than designing the proposal at a higher density, the additional land would be utilised to enable open space and landscaping within the development, in a manner that would be sensitive to its edge-of-settlement location. Due to the Council's reservations regarding this point, the landscape impact of the proposal has been thoroughly considered and the evidence before me confirms that it has been demonstrably scrutinised. As identified above, this additional scrutiny has enabled the Council to withdraw their concerns regarding landscape and visual impact.
16. The proposal is in outline form, with all matters reserved for future consideration, other than access, and it has been supplemented with thorough evidence regarding landscape impact. The development would result in an obvious visual change to the existing surroundings, but as an allocated site, this could not be avoided. I have no evidence before me that distinguishes the visual impact between the allocated land and the unallocated land. The reports consider the site as a whole and the unallocated land would be experienced as part of the broader development. In this regard, it would be integrated with the allocated land. The proposal would not result in any isolated form of development and there is nothing compelling in the evidence before me to confirm that the visual impact of developing the unallocated land would be demonstrably more harmful than just the allocation
17. The inclusion of the additional land has been suitably articulated by the appellant. Moreover, the additional landscape and biodiversity evidence ably demonstrates that the development on this part of the site has been sensitively considered. Accordingly, in my judgement, when assessed against the strict

controls of local policy, and having due regard to the environment in which the development would be located, I am satisfied that there is nothing in the evidence before me to confirm that the inclusion of the westernmost parcel of land would be contrary to local policy, when taken as a whole.

18. Consequently, having regard to local and national policy, I conclude that the appeal site would be suitable for the development proposed. It would therefore comply with Policies CS3 and CS5 of the CS and Policies MD2 and MD7a of the SAMDev, the requirements of which are set out above.

### **Other Matters**

19. The appeal site is located within the catchment area of the Midland Meres and Mosses Phase 2 Ramsar Site. Paragraph 181 of the Framework requires that this be given the same protection as habitats sites, which the Framework defines as any site which would be included within the definition at Regulation 8 of the Conservation of Habitats and Species Regulations 2017 (the Regulations). Accordingly, due to the location of the site, the requirements of the Regulations are applicable to my assessment of the appeal.
20. This requires that I, as the competent authority, must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the Ramsar. The Ramsar is susceptible to disturbance of habitats through trampling, as well as interference with habitat management, and also increased nitrification of habitats, primarily due to dog fouling. As a consequence, taking a precautionary approach, and when combined with other development within the area, I am satisfied that the proposal would result in an increase in such activity which would lead to a likely significant adverse effect on the integrity of the Ramsar.
21. Due to this effect, the Regulations place a duty on competent authorities to make an appropriate assessment of the implications of the development proposed in view of the site's conservation objectives. On this basis, a management plan is being prepared to ensure that recreational pressure can be suitably managed so as to protect the integrity of the Ramsar. Although this report remains in draft form, the parties have agreed that a contribution of £7,500 would assist in implementing visitor management measures to protect the Ramsar. The contribution forms part of the completed Section 106 Legal Agreement.
22. Based on the evidence before me, I am satisfied that this contribution is necessary to provide the delivery of suitable mitigation that would address the level of harm likely to be caused by the development. Accordingly, it would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations). As a consequence, subject to the necessary mitigation, I am satisfied that the proposal would not result in a significant harmful effect on the integrity of the Ramsar.
23. The legal agreement also includes provisions in relation to affordable housing, as well as public open space, including maintenance. The evidence before me confirms the need for these matters and consequently, I am satisfied that the contents of the agreement comply with the requirements of the CIL Regulations. Accordingly, the submitted legal agreement is a valid document that is fit for purpose and therefore weighs in favour of the proposal.

24. I note the comments regarding flooding and drainage, however, I have no substantive evidence to demonstrate that this matter is of specific concern. No objection was raised to this matter by the Council and subject to a suitably worded planning condition, I am satisfied that flooding and drainage need not cause harm following development. I also note the concerns regarding highway safety and volume of traffic. Nevertheless, again, the evidence before me does not present a compelling case that the proposal would give rise to harm in relation to these matters. The proposal has been suitably scrutinised by the Highway Authority and no objection has been raised subject to the imposition of certain conditions. On the basis of the evidence before me, I have no reason to disagree with this approach.
25. In relation to the effect of the proposal on infrastructure such as schools, doctors and dentist practices, I have no substantive evidence before me to demonstrate that the proposal would have an adverse effect. They are not matters for which the Council have sought contributions or to which concerns have been raised. Accordingly, based on the evidence before me, I have no reason to consider that the proposal would cause demonstrable harm in these areas.

### **Conditions**

26. Due to my findings set out above, conditions 1 – 4 are necessary in the interests of precision and clarity. In addition, conditions 5 – 9 are necessary in the interests of highway safety. Condition 10 is necessary to ensure satisfactory drainage of the site, and condition 11 is necessary due to the archaeological interest of the site. Condition 12 is necessary to protect the ecological interest of the site, and condition 13 is necessary to ensure that a suitably robust landscaping scheme accompanies the reserved matters submission. Condition 14 is necessary to ensure suitable living conditions are provided for future occupants, and condition 15 is necessary to promote sustainable travel opportunities.
27. The conditions have been taken from the agreed Statement of Common Ground and as a consequence, where conditions require information to be submitted prior to the commencement of development, the appellant has confirmed their acceptance.
28. An additional condition was suggested to establish the upper limit for development on the site, but because this matter is explicitly stated within the description of development, a condition to duplicate this matter would be unnecessary.

### **Conclusion**

29. For the reasons identified above, the appeal should be allowed.

*Martin Chandler*

INSPECTOR

### SCHEDULE OF CONDITIONS

- 1) Approval of the details of the appearance of the development, access arrangements, layout, scale, and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
- 3) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development shall be carried out strictly in accordance with the following approved plans and drawings: 18-14-LP01; 68591-CUR-00-XX-DR-TP-75001-P04 (Proposed Access Option 1); S18-412; and WD18-13-MP01-G.
- 5) Notwithstanding the access details as shown on Drawing No.68591-CUR-00-XX-DR-TP-75001-P04 and prior to the commencement of development full engineering details of the access layout, visibility splays and raised table shall be submitted to and approved in writing by the Local Planning Authority; the access scheme and raised table shall be implemented in accordance with the approved details and a phasing programme to be first submitted to and approved in writing by the Local Planning Authority.
- 6) No development shall take place until details of the design and construction of any new roads, footways, accesses together with details of the disposal of highway surface water and phasing programme have been submitted to, and approved by the Local Planning Authority. The agreed details shall be fully implemented in accordance with the approved details.
- 7) Prior to the commencement of development a scheme for the provision of a mini-roundabout at the junction of Lowe Hill Road and B5063 shall be submitted to approved in writing by the Local Planning Authority: the mini-roundabout scheme shall be fully implemented in accordance with the approved scheme following the occupation of the 50th dwelling within the site.
- 8) No development shall take place until details for the parking and turning of vehicles have been submitted to and approved by the Local Planning Authority. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.
- 9) No development shall take place, including any works of demolition, until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority, to include a community



communication protocol. The CTMP shall be fully implemented in accordance with the approved details for the duration of the construction period.

- 10) No development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).
- 11) No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.
- 12) No development shall take place until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained from Natural England and submitted to the Local Planning Authority.
- 13) The first submission of reserved matters shall include a landscaping plan. The submitted plan shall include:
  - 1) Planting plans showing creation of wildlife habitats including species-rich grassland, permanent aquatic habitats and hedgerow / tree planting,
  - 2) Written specifications (including cultivation and other operations associated with wildlife habitat establishment);
  - 3) Schedules of plants, noting species (including scientific names, seed mix compositions, planting sizes and proposed numbers/densities where appropriate;
  - 4) Native species used are to be of local provenance (Shropshire or surrounding counties);
  - 5) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
  - 6) Detail of boundary treatment which will include provision for hedges.
  - 7) Implementation timetables.
  - 8) Recreational space and landscaping/plantings in relation to this.

The plan shall be carried out as approved. Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be replaced within 12 calendar months with trees of the same size and species.
- 14) Any subsequent planning application/reserve matters for development on site will include reference to a scheme for protecting the occupants of the proposed development from the traffic noise on Lowe Hill Road, to be submitted to, and approved in writing by the Local Planning Authority. The scheme shall ensure that all properties have been designed so that the following good noise standards can be achieved: 35dBA LAeq in habitable rooms in the day, 30dB LAeq in bedrooms at night, 45dB LAmax in bedrooms at night and 50dB LAeq in external amenity areas. Acoustic

glazing which requires windows to be kept shut should only be used where it is not possible to resolve the issues by other design measures and where there is a clear planning need for the proposed design. The approved scheme shall be completed prior to the first occupation of the development and shall thereafter be retained.

- 15) The interim travel plan shall be implemented in accordance with the Action Plan set out in the approved details.