

DRAFT Statement of Common Ground and Draft Heads of Terms

Land at, Broadfields, Wivenhoe, Colchester

***Statement of Common
Ground and Draft Heads of
Terms***

Land at, Broadfields, Wivenhoe, Colchester

LPA Ref: 210965

PINS Ref: TBC

Prepared by: Savills on Behalf of Taylor Wimpey UK Limited and Hutchinsons, Planning & Development Consultants on behalf of Colchester Borough Council

November 2022

DRAFT Statement of Common Ground and Draft Heads of Terms

Land at, Broadfields, Wivenhoe, Colchester

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1. Introduction

- 1.1. This Statement of Common Ground (SoCG) sets out matters which are agreed by the appellant, Taylor Wimpey UK Limited and Colchester Borough Council.
- 1.2. This SOCG contains factual information about the proposal.
- 1.3. The appeal scheme seeks provision for:

“Construction of residential development (Use Class C3), access, landscaping, public open space, and associated infrastructure works.”
- 1.4. An appeal was lodged on 23rd August 2022 against the refusal of planning permission.
- 1.5. The Planning Inspectorate has confirmed that the appeal will be dealt with via Inquiry.
- 1.6. Colchester Borough Council has been granted City status and will become a City on 23 November 2022 and will be Colchester City Council at the time of the Inquiry. This SoCG has been prepared and agreed prior to that date and all references are therefore to the current Borough Council.

2. Description of Site and Background

- 2.1. The whole appeal site extends to 15.02 hectares and it is located within Wivenhoe at the north eastern edge of the town. See Figure 2.1 below. The site is approximately 2 km from south eastern edge of Colchester, and lies to the south of Broad Lane Sports Ground and Elmstead Road. The site comprises of undeveloped open land, former arable land. The eastern section of the site forms part of the non-statutory designated Wivenhoe Cross Pit Local Wildlife Site Co161 (LoWS)¹.
- 2.2. A site location plan is provided in Figure 2.1 below.

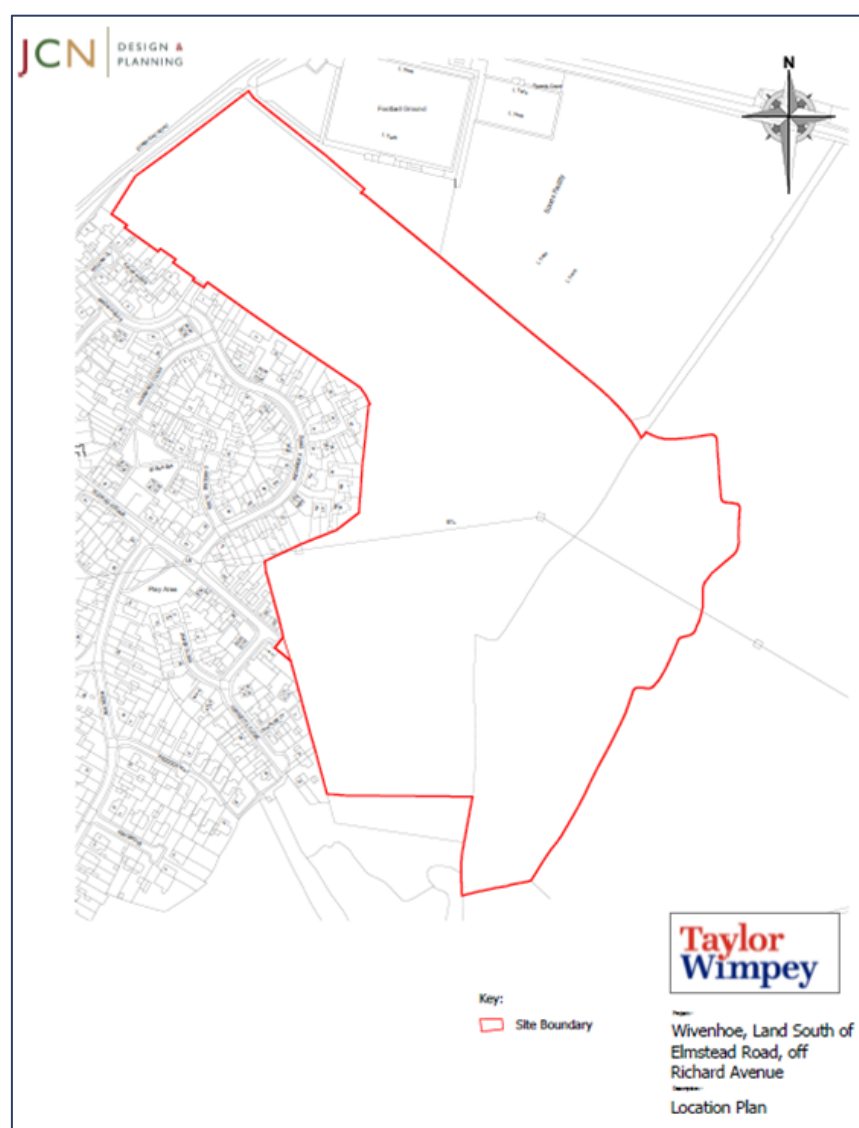


Figure 2.1. Site Location Plan

¹ <http://www.essexwrecords.org.uk/LoWS/Co161>

2.3. The area of the appeal site to be developed for residential for the built footprint extends to 3.74 hectares. The remaining area is to be set aside for 2 hectares of sports pitches and new open space and will comprise 9.28 hectares. This includes open spaces, walking routes, buffer zones, SuDS and includes part of the Wivenhoe Cross Local Wildlife Site. Public access for pedestrians will be created into the eastern LoWS land which is within the application boundary. A map of the development areas is set out at Figure 2.2 below.

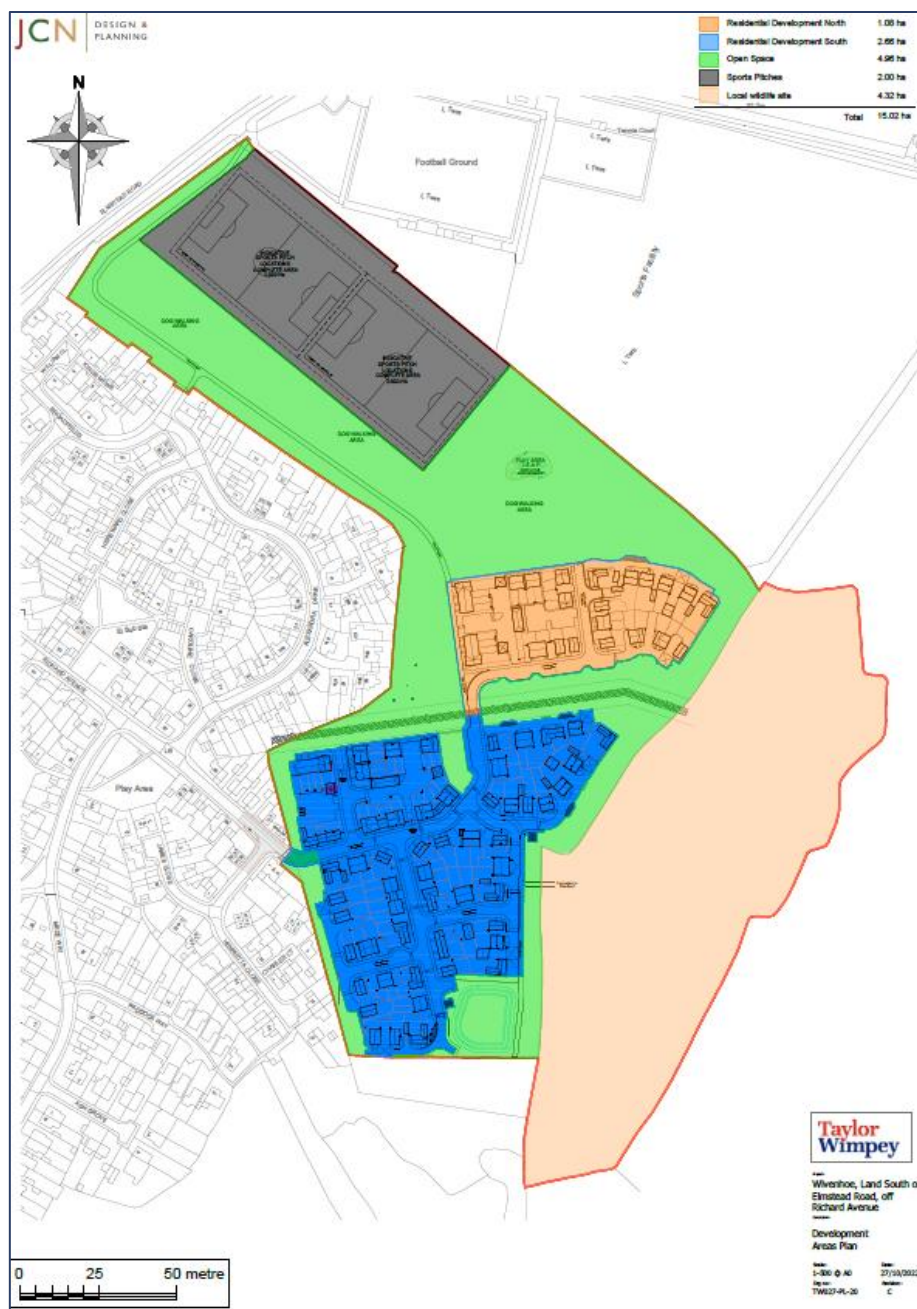


Figure 2.2: Proposed Development Areas by Use

- 2.4. The site is not subject to historic designations, but the eastern part of the site is a local wildlife site (LoWs).
The site is located in Flood Zone 1.

3. Planning History

- 3.1. The appeal site has no history of planning applications or Section 78 appeals. However, part of the site is allocated for residential development with the remainder within the redline allocated for sports field, open space. The LoWs is excluded from the neighbourhood plan allocation.

Surrounding Area

- 3.2. To the west of the site an application (LPA Ref. 213515) was submitted in December 2021 by Manor Oak Homes Ltd. The scheme is described in full below:

“Outline planning application with all matters reserved, except for access, for the construction of a minimum of 25 dwellings with associated open space, landscaping, and infrastructure. Change of use of agricultural land to a memorial park for the interment of ashes with associated access and car park for 12 cars.

- 3.3. The site comprises part of the allocation within the Wivenhoe Neighbourhood Plan under Policy WIV 30 – Land at Elmstead Road. This application is still awaiting decision.

- 3.4. Another application (LPA Ref. 213507) by Manor Oak Homes Ltd was submitted in December 2021 at land to the west of Wivenhoe, near to the appeal site. The description of development is as follows:

“Outline planning application with all matters reserved, except for access, for the construction of a minimum of 80 dwellings, a 60 bed care home (Use Class C2), and up to 8 charity homes with associated open space, landscaping, and infrastructure. Provision for a dedicated access to proposed allotments.”

- 3.5. The site comprises part of the allocation within the Wivenhoe Neighbourhood Plan under Policy WIV 31 – Land behind The Fire Station. This application is also currently under consideration.

4. Description of the Appeal Scheme

4.1. The appeal relates to the:

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

4.2. Full details of the appeal scheme are set out in the Design and Access Statement and Plans prepared by JCN Architects and are submitted in support of this appeal.

4.3. In advance of submission, the development of the site was discussed with Colchester Borough Council (CBC) as part of pre-application services.

4.4. The appeal scheme proposes the following:

- 120 residential dwellings;
- A mix of dwellings typologies and sizes comprising 2, 3 and 4-bedroom houses.;
- 24 of the total units will be provided as affordable, which equates to 20% on-site affordable housing provision;
- 2 hectares of land for the provision of sports pitches;
- Policy compliant amenity space;
- LEAP and areas of Open Space; and
- Car parking for both residents and visitors;

4.5. The documents and drawings submitted in support of the application are as follows:

- **Planning Application Form and Certificates**, prepared by Savills;
- **Planning Statement Addendum**, prepared by Savills;
- **Application Drawing Pack**, prepared by JCN Architects ;
- **Design Statement**, prepared by JCN Architects;
- **Landscape Strategy and Strategic Landscape Proposal Plan (Plan ref. 20.5101.08 Rev B: ,** prepared by Andrew Hastings Landscaping;
- **Landscape and Visual Impact Appraisal**, prepared by Arc Landscaping;
- **Arboricultural Assessment and Tree Protection Measures**, prepared by Haydens Arb Consultants;

- **Ecological Impact Assessment Rev C**, prepared by SES;
- **Information to Support Habitat Regulations Assessment Rev B**, prepared by SES;
- **Biodiversity Metric 2.0 Calculation**, prepared by SES;
- **Highways Strategy Plans**, prepared by Stomor;
- **Site Waste Management Plan**, prepared by JCN Architects;
- **Flood Risk Assessment**, prepared by Stomor;
- **Foul Sewage and Utilities Assessment**, prepared by Infrastructure Gateway Limited;
- **Archaeological Assessment**, prepared by RPS;
- **Health Impact Assessment**, prepared by Hodkinsons; and
- **Statement of Community Involvement**, prepared by RKH.

Post Submission Documentation provided

June 2021

- **LLFA Response**, prepared by Stomor (Submitted 21/06/2022)

July 2021

- **Emails from Registered Providers**, prepared by Sage and CHP (submitted 08.07.2022);
- **Application Drawing Pack**, prepared by JCN Architects;
- **Strategic Landscape Proposals (Plan ref. 20.5101.08 Rev D)**, prepared by Andrew Hastings Landscaping (Updated July 2021);
- **Amendments covering letter**, prepared by Savills

August 2021

- **LLFA Response**, prepared by Stomor (submitted 21.08.2021);
- **Landscape Visual Impact Appraisal**, prepared by Arc (April 2021);
- **Response to comments from CBC**, prepared by JCN Architects ;
- **Response to design comments from CBC**, prepared by Savills;
- **Development Layout Plan Option 9 (Drawing ref. TW027-PL03-00)**, prepared by JCN Architects;
- **Footpath / Cycle Path Option 9 (Drawing ref. TW027-PL11-00)**, prepared by JCN Architects;
- **Window Surveillance Option 9 (Drawing ref. TW027-PL12-A)**, prepared by JCN Architects;

November 2021

- **Phase I – Desk Study**, prepared by Ensafe;

February 2022

- **Amendments Covering Letter**, prepared by Savills;

- **Updated Architects Drawing Pack**, prepared by JCN Architects;
- **Updated Design and Access Statement**, prepared by JCN Architects;
- **Planning Statement Addendum**, prepared by Savills;
- **Strategic Landscape Proposals (Plan ref. 20.5101.08 Rev E)**, prepared by Andrew Hastings Landscaping;
- **Landscape Visual impact Appraisal Addendum**, prepared by ARC;
- **Accurate Visual Representations (AVR) images**, prepared by Preconstruct Ltd;
- **Phase II Environmental Site Investigation Report (February 2022)**, prepared by Ensafe;

April 2022

- **Updated Architects Drawing Pack**, prepared by JCN Architects;
- **Detailed Development Layout Option 9 (Drawing ref. TW027-PL04-G)**, prepared by JCN Architects;
- **Strategic Landscape Proposals (Plan ref. 20.5101.08 Rev G)**, prepared by Andrew Hastings Landscaping;

May 2022

- **Updated Architects Drawing Pack**, prepared by JCN Architects;
- **Strategic Landscape Proposals (Plan ref. 20.5101.08 Rev H)**, prepared by Andrew Hastings Landscaping;
- **Flood Risk Assessment**, prepared by Stomor ;
- **Ground Gas Assessment**, prepared by Ensafe;
- **AWS Consultation Response**, prepared by Stomor;
- **LLFA Consultation Response**, prepared by Stomor;
- **Energy Statement (Updated April 2022)**, prepared by Energist ;
- **Energy Statement Addendum (May 2022)**, prepared by Energist;
- **Drainage Strategy (Drawing ref. ST-2981-01-E)**, prepared by Stomor;
- **Detailed Drainage Document**, prepared by Stomor;
- **Fire Tracking Layout Option 9 Plan (Drawing Ref. TW027 PL14-rev B)**, prepared by JCN Architects;

4.6. In addition to the above documents, the following documents have also been submitted with the Appeal (PINS Ref. APP/A1530/W/22/3305697)

- **Appeal Form**, prepared by Savills on behalf of Taylor Wimpey UK Limited

- **Appeal Statement** (and appendices), prepared by Savills on behalf of Taylor Wimpey UK Limited;
- **Drawing TW027 PL14 Rev 5 Fire Check-** Fire Tracking Layout Option 9, prepared by JCN Architects
- **Letter from Essex County Fire and Rescue** dated 18 July 2022

Consideration of the Application

4.7. The application was validated on 8th April 2021, a decision to refuse the application was issued on 14th June 2022.

4.8. Comments received at the time the appeal was submitted include:

- CBC Planning Policy;
- CBC Urban Design Officer ;
- ECC LLFA;
- ECC Highways;
- Wivenhoe Town Council;
- Essex County Fire & Rescue Service;
- Sports England;
- CBC Landscape Officer;
- Wivenhoe Society;
- Contamination;
- ECC Minerals and Waste;
- Place Services Ecology;
- Wivenhoe and District Sporting Facilities Trust;
- Councillor Mark Cory;
- Anglian Water;
- Natural England;
- Essex Police;
- Cadent Gas;
- Cadent Gas Pipelines;
- Environmental Protection;
- NHS;

4.9. The application also received comments from Local Residents from 56 addresses.

5. Planning Policy Framework

5.1. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, appeal proposals should be determined in accordance with the development plan unless material considerations indicate otherwise.

5.2. The Statutory Development Plan for Colchester Borough Council comprises:

- Colchester Borough Council Local Plan 2013 – 2033 Section 1 – North Essex Authorities' Shared Strategic Section 1 Plan (adopted February 2021);
- Local Plan Colchester Borough Local Plan 2017 – 2033, Section 2 Adopted July 2022; and
- Wivenhoe Neighbourhood Plan (Made 2019).

5.3. In addition to the above, the following SPD's are relevant:

- Affordable Housing SPD (adopted 2011).

National Planning Policy Framework (NPPF)

5.4. The NPPF out government's planning policies for England and how these are expected to be applied. It was published in March 2012 and was revised most recently in July 2021

5.5. The NPPF confirms at Paragraph 2 that Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. It must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements

5.6. At the heart of the NPPF (2021) there is a presumption in favour of sustainable development at paragraph 11, which confirms that for decision making this means: ,.

c) Approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date², granting permission unless:

- i. 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*
- ii. 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.*

- 5.7. 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.
- 5.8. NPPF paragraph 13 states that Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies.
- 5.9. Supporting the Framework are the Planning Practice Guidance (PPG) notes .

Statutory Development Plan

Local Plan Section 1 - Strategic Plan for North Essex (adopted 2021)

- 5.10. The Strategic Plan for North Essex was formally adopted by a decision at CBC's Full Council meeting on 1st February 2021. The Section 1 Plan includes policies for a Garden Community at Tendring / Colchester Borders. Section 1 in part replaced a number of the strategic policies contained within the Core Strategy. The previously adopted Local Plan has been replaced, in full, on the formal adoption of Section 2.
- 5.11. Policy SP3 sets out the Spatial Strategy for North Essex. This states Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. The policy requires each local planning authority to identify a hierarchy of settlements in their Section 2 Local Plans where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs.

² By virtue of Footnote 8

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

- 5.12. The Colchester Borough Local Plan 2017 – 2033 was adopted on the 4th July 2022 and together with Section 1, has now replaced the previously adopted Core Strategy and the Site Allocations DPD referred to in the Reasons for Refusal. A summary of key policies relevant to this case are summarised below, this is not an exhaustive list, as other policies may be considered relevant.
- 5.13. Policy SG1 sets out Colchester’s Spatial Strategy. This confirms the second tier also includes existing Sustainable Settlements within the Borough most of which are planned for appropriate growth. Table SG1 Spatial Hierarchy confirms Wivenhoe is a Sustainable Settlement.
- 5.14. Policy SG2: Housing Delivery states that the Local Planning Authority will plan, monitor and manage the delivery of at least 14,720 new homes in Colchester Borough between 2017 and 2033. The housing target is based on a robust Objectively Assessed Housing Need figure of 920 homes a year. It also states that to maintain the vitality and viability of the Borough’s smaller towns and villages, an appropriate level of new development will be brought forward in Sustainable Settlements to support new homes and economic and social development. Details on those allocations are provided in Policies SS1- SS16 (Sustainable Settlements).
- 5.15. Table SG2 – Colchester’s Housing Provision sets out new allocations (2021-2033) of 250 homes within Wivenhoe.
- 5.16. Policy ENV1 : Part E relates to Countryside and confirms that *“The local planning authority will carefully balance the requirement for new development within the countryside to meet identified development needs in accordance with Colchester’s spatial strategy, and to support the vitality of rural communities, whilst ensuring that development does not have an adverse impact on the different roles, the relationship between and separate identities of settlements, valued landscapes, the intrinsic character and beauty of the countryside and visual amenity. The intrinsic character and beauty of the countryside will be recognised and assessed, and development will only be permitted where it would not adversely affect the intrinsic character and beauty of the countryside and complies with other relevant policies. Within valued landscapes, development will only be permitted where it would not impact upon and would protect and enhance the factors that contribute to valued landscapes.”*
- 5.17. Policy SS16 relates to Wivenhoe and refers to the made Wivenhoe Neighbourhood Plan which identifies

the settlement boundary for Wivenhoe and identifies specific sites for housing allocations needed to deliver 250 dwellings in Wivenhoe. Policy SS16 also confirms that proposals for development outside of the settlement boundary will not be supported unless the Neighbourhood Plan or other Local Plan policy specifically allows for it. Also that all development proposals in Wivenhoe Neighbourhood Plan Area will be determined against and be required to comply with policies in the Wivenhoe Neighbourhood Plan and any relevant Local Plan policies.

Wivenhoe Neighbourhood Plan

- 5.18. Colchester Borough Council formally adopted the Wivenhoe Neighbourhood Plan (WNP) in May 2019. The Plan conforms to the strategic policies and proposals of the Development Plan and to the NPPF.
- 5.19. The appeal site includes land that is allocated under WNP Policy WIV29 – Land behind Broadfields. Figure 5.1 below shows the Settlement Boundary, and the allocations for housing (4.06ha) in red, open space in dark green, and new sports fields (2ha) in lime green with black lines.

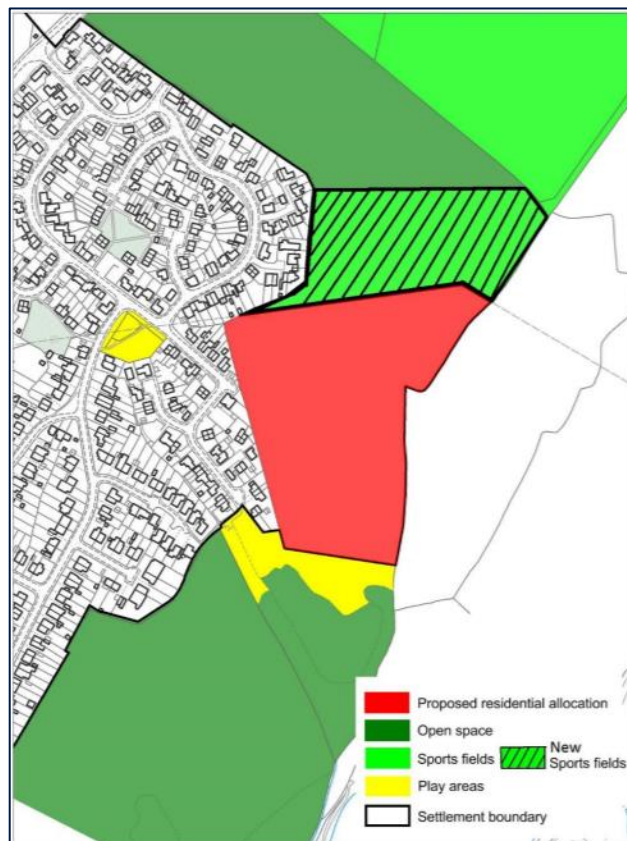


Figure 5.1: Figure 35 of Neighbourhood Plan Site Allocation

5.20. It is agreed that, based on the Appellant's use of a mapped digital OS map figures, the measured areas in Figure 35, are 4.08ha for the red residential area and 2.2ha for the land for new sports pitches in lime green with black lines.

5.21. Policy WIV29 allocates the land in red totalling 4.06 hectares for housing for a minimum of 120 dwellings subject to the conditions below:

“(i) a minimum of 45 dwellings shall be provided with one or two bedrooms which should be designed as homes suitable for older people, single people, or for young couples. They could be bungalows, terraced properties or apartments; and

(ii) the number of dwellings with four bedrooms or more shall not exceed 25 (these could include an office for home-working and / or an annexe to accommodate a relative); and

(iii) dwellings, of whatever size, designed for older residents or active retirees should preferably be built to the Lifetime Homes standard; and

(iv) 20% of all properties should be affordable housing or that percentage relevant under national or Borough policies at the time the planning application is submitted subject to viability considerations; and

(v) it can be demonstrated that the development will not have a detrimental impact on wildlife, as evidenced through an appropriate wildlife survey; and

(vi) vehicle access into the residential part of the site shall be provided from Richard Avenue; and

(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; and

(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; and

(ix) a shared-use footpath and cycle track shall be 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; and

(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; and

(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.”

Emerging Supplementary Planning Guidance

- 5.22. CBC consulted on an updated Affordable Housing SPD in 2020.. A further consultation is to take place on the document following the adoption of the Local Plan.

Essex Design Guide

- 5.23. The Essex Design Guide (2018) (EDG) provides detailed design advice on the layout, design and spatial principles of new residential and mixed use development. The EDG version adopted by CBC is the 1997 edition. The more recent 2018 version is an online version and is not adopted by Colchester Borough Council, however it is a material consideration.

Five Year Supply

- 5.24. The Council's Five Year Housing Land Supply Statement 2022 sets out the Council's position as at 5th July 2022 and relates to the five year period between 5th July 2022 and 4 July 2027. The Statement follows the adoption of the Section 2 Local Plan on the 4 July 2022. Section 1 of the Local Plan (adopted February 2021) set an Objectively Assessed Need (OAN) of 920 dwellings pa and forms the basis of the calculations for housing supply in the Borough in accordance with the NPPF. The Housing Supply Statement confirms that the Council is able to demonstrate a 5.25 year supply of housing land.

6. Landscape

- 6.1. Matters of Landscape are to be the subject of a separate Landscape Statement of Common Ground

7. Areas of Common Ground

7.1. The Matters agreed between the appellant and CBC as common ground are detailed below.

Planning Policies

7.2. The parties agree that the Colchester Local Plan documents as set out in Section 6 above, now comprises the Statutory Development Plan for the Borough and have superseded the Core Strategy and the Site Allocations DPD and the Development Policies DPD. As a consequence the parties no longer intend to address the policies of those superseded Plans referred to in the Reasons for Refusal.

7.3. It is agreed that the Wivenhoe Neighbourhood Plan 2019 identifies the Settlement Boundary of Wivenhoe in Proposals Map 1.

7.4. The Parties agree that 5.25 years is the housing supply figure for the purposes of this appeal and do not intend to call specific evidence relating to 5 year housing supply.

Appeal Site

7.5. It is agreed that the appeal site comprises an area of undeveloped open land of approximately 15.02 hectares.

Land Use

7.6. The site is agricultural land, but is now uncropped. Part of the site area is the LoWS which contains grassland, scrub habitat and emerging woodland. Hedgerows and trees border this area.

7.7. The land is in private ownership and there are no formal public rights of way established. Informal public use and access has occurred.

Developable Area

7.8. The net area of site to be developed for residential development extends to 3.74 hectares, the area to be set aside for sports pitches extends to 2 hectares and new open space will comprise 9.28 hectares of land of which 4.32ha forms part of the non-statutory designated Wivenhoe Cross Pit Local Wildlife Site (LoWS) which is not to be developed, but will be made publically available .

Principle of Development

- 7.9. Part of the appeal site is allocated under Policy WIV29 of the Wivenhoe Neighbourhood Plan. The allocation (in red) provides for an area of 4.06 hectares and is allocated for a minimum of 120 dwellings. The principle of delivering new homes on the allocated part of the site is accepted by the appellant and CBC.
- 7.10. In addition the principle of providing public open spaces and the provision of land for sports pitches, is agreed between the parties, as is their location. CBC will be responsible for delivering the pitches on the land for sports pitches.

Proposed Residential Mix and Affordable Housing

- 7.11. The 120 dwellings will comprise of 2, 3 and 4-bedroom houses, responding to the Neighbourhood Plan, as follows:
- 2 Bed 45 (37.5%)
 - 3 Bed 50 (41.7%)
 - 4 Bed 25 (20.8%)
 - Total 120 (100%)
- 7.12. The proposed housing mix comprises of 96 private sale units and 24 affordable units, which equates to 20% on-site affordable housing provision in line with WIV29. 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 and will be subject to a Section 106. The overall quantum of 20% and the tenure split is considered acceptable by all parties.

Accessibility

- 7.13. The Appellant has confirmed that 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 and will be a fully wheelchair accessible home.
- 7.14. The accords with the requirements of CBC and is considered acceptable.

Daylight Sunlight, and Overheating

- 7.15. Daylight, sunlight and overheating matters have not been identified as a disputed matter.

Highways implications

- 7.16. The Highway Authority has raised no objections to the proposed development on transport and highways impact subject to a range of mitigatory measures being secured. Subject to those measures being secured, the Local Planning Authority has no objections to the proposal on highway grounds.

Car & Cycle Parking

- 7.17. The proposed level of car parking is acceptable and in accordance with the Council's policy requirements. It is considered that an acceptable level of cycle provision can be demonstrated throughout the site subject to the submission of further details.

Access

- 7.18. The access taken from Richard Avenue is in accordance with the requirements of WNP Policy WIV29 (vi).

Design

- 7.19. The design of the proposed housing scheme in respect of density, architecture and proposed character, elevational treatments, unit quality, and secure by design are not disputed.
- 7.20. Other elements such as materials and landscape details are to be subject to conditions requiring the submission of details.

Ecology

- 7.21. Ecology, landscaping (including playspace) and trees have not been raised in the reasons for refusal. It is agreed that subject to appropriate conditions and S106 to secure the recommended mitigation and enhancements, including the on-site and off-site mitigation as required by the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) that all significant negative 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 policy related to ecology.

Sustainability and Energy

- 7.22. Sustainability and energy have not been identified as a disputed matter.

Biodiversity Net Gain, Canopy Cover and Trees

- 7.23. The Application has provided Net Gain Calculations and evidences a prospective future biodiversity net gain of 2.66 habitat units across the wider site, a net positive change of 35.88%. This is agreed to be acceptable subject to appropriate conditions securing the provision of the improved enhancement.
- 7.24. There is agreement that the submitted scheme will not result in the loss of significant numbers of trees and that appropriate protection of the existing trees to be retained can be secured. Subject to the implementation of an acceptable landscaping scheme a 10% canopy increase can be achieved through new tree planting within the open space areas. This scheme can be provided through a detailed Condition for landscape design and long term management.

Flood Risk and Drainage

- 7.25. It is agreed that the appeal site is located within Flood Zone 1 and therefore is at low risk of flooding. The LLFA and Anglian Water have raised no objections to the scheme as amended and therefore subject to appropriate conditions being imposed, the proposed development would be acceptable in this regard.

Archaeology and Contamination

- 7.26. No objections are raised in respect of Archaeology and contamination subject to the imposition of suitable conditions.

Air Quality and, Noise

- 7.27. No objections are raised in respect of air quality and noise.

Utilities and Services

- 7.28. Utilities and Services have not been identified as a disputed matter on the decision notice. The findings of the assessments are agreed.

Heritage

- 7.29. The appeal site does not contain any listed buildings and is not located within or adjacent to a conservation area, or a historic park or garden. It is agreed that the existing listed buildings in Wivenhoe are sufficiently removed from the appeal site so that the appeal proposal would not have a material impact on the setting of any listed buildings in the wider area.

Fire

- 7.30. Issues relating to Fire did not form part of the reasons for refusal and the Appellant's approach is considered acceptable by Essex Fire and Rescue following submission of the appeal Health Impact Assessment and Statement of Community Involvement

- 7.31. The Council has raised no objections to the contents of the above documents.

Section 106 Agreement

- 7.32. In relation to Reason for Refusal No 2, it is expected that this reason can be withdrawn on completion of an agreed Section 106 Agreement.

8. Matters in Dispute

8.1. The follow matters are not common ground between the appellant and CBC and will form the basis of evidence submitted by each party:

- Whether the proposed development is in conflict with the adopted Colchester Borough Council Development Plan or not;
- Whether the land proposed for residential development outside of the site allocation would cause demonstrable landscape harm;
- Whether the Colchester Local Plan Sections 1 and 2 and the Wivenhoe Neighbourhood Plan are consistent with the Framework.

9. Planning Conditions

- 9.1. The conditions set out in the Committee Report have been reviewed and an agreed set of conditions will be submitted.

10. Agreed Draft Heads of Terms

10.1. A Section 106 Agreement will be made available and is currently in discussion between the Council and the Appellant. The S106 will be based on the Heads of Terms contained in the Officer's Report to committee (CD1.1) and as set out below:

- Provision of Affordable Housing
- Transfer of Football pitches to the Council
- Financial Obligations in relation to:
 - Education,
 - Archaeology,
 - Maintenance of Open Space (if transferred to Council) and
 - Off-site Community sports provision,
 - Maintenance of Open Space,
 - RAMs

11. Declaration

11.1. Having regard to the above, the single subject of dispute between the appellant and the LPA as outlined in Section 7, forms the basis of the evidence submitted by each party.

Signed on behalf of the Appellant	Signed on behalf of the LPA
Savills	Colchester Borough Council
15 th November 2022 Date	15 November 2022 Date
 James Firth Director	 Alison Hutchinson Consultant for CBC

Appendix 1 – List of Agreed Plans

- TW027-PL-01 rev 00 Location Plan
- TW027-PL-03 rev M Development Layout Plan
- TW027-PL-04 rev H Detailed Dev Layout
- TW027-PL-05 rev G Materials Layout
- TW027-PL-06 rev F Refuse Layout
- TW027-PL-07 rev G.pdf Tenure Plan
- TW027-PL-08 rev F Storey Heights Plan
- TW027-PL-09 rev E Parking Plan
- TW027-PL-10 rev F Garden Plan
- TW027-PL-13 rev A EV Service Points
- TW027-LS-01 rev 00 Character Area A
- TW027-LS-02 rev 00 Character Area B
- TW027-LS-03 rev 00 Character Area C
- TW027-LS-04 rev 00 Character Area D
- TW027-ST-02-Rev C Street scenes B and C
- TW027-ST-03-Rev A Street Scene A
- TW027-ST-04-Rev 00 Street Scene D
- TW027-HAM4-3-01 Rev B HAMA(3) Floor Plans
- TW027-HAM4-3-02 Rev B HAMA(3) Elevations
- TW027-NA20-01 Rev C NA20a Ashenford - Plans & Elevations
- TW027-NA32-01 Rev D NA32a Byford - Plans & Elevations
- TW027-NA32-02 Rev B NA32b Byford - Plans & Elevations
- TW027-NA32-03 Rev C NA32c Byford - Plans & Elevations
- TW027-NA34-01 Rev B NA34a Coltford - Plans & Elevations
- TW027-NA34-02 Rev B NA34b Coltford - Plans & Elevations
- TW027-NA34-03 Rev C NA34c Coltford - Plans & Elevations
- TW027-NA42-01 Rev C NA42 Plans & Elevations
- TW027-NA44-01 Rev B NA44a Manford - Plans & Elevations
- TW027-NA44-02 Rev B NA44b Manford - Plans & Elevations
- TW027-NA49-01 Rev C NA49 Janford - Plans & Elevations
- TW027-NT42-01 Rev B NT42 Waysdale - Plans
- TW027-NT42-02 Rev B NT42 Waysdale - Elevations
- TW027-PA25-01 Rev C PA25a Canford - Plans & Elevations
- TW027-PA25-02 Rev C PA25b Canford - Plans & Elevations
- TW027-PT36-01 Rev B PT36a Easedale - Plans & Elevations
- TW027-PT36-02 Rev B PT36b Easedale - Plans & Elevations
- TW027-PT37-01 Rev B PT37a Yewdale - Plans & Elevations
- TW027-PT37-02 Rev B PT37b Yewdale - Plans & Elevations
- TW027-CP1-01 Rev 00 Carport CP1
- TW027-CP2-01 Rev 00 Carport CP2
- TW027-CP5-01 Rev A Carport CP4

- TW027-CP6-01 Rev A Carport CP5
- TW027-DG1-01 Rev 00 Double Garage DG1
- TW027-DG2-01 Rev 00 Double Garage DG1
- TW027-SG-01 Rev 00 Single Garage
- TW027-Sub-01 Rev 00 Sub Station
- TW027 PL14-rev B Fire Tracking Layout Option 9 Plan
- Landscape Strategy and Masterplan (Updated May 2022)
- 20.5101.08 Rev H Strategic Landscape Proposals
- Highways Strategy Plans
- ST-2981-01-E Drainage Strategy