

## **CODE review of suggested conditions from statutory consultees – Land east of Rayleigh Road, Thundersley (23/0085/OUT)**

The following conditions have been requested by statutory consultees further to their consideration of This Land Development Limited's outline planning application on land east of Rayleigh Road, Thundersley. Within this document, CODE outlines the requested planning conditions and, where relevant, either confirms the applicant's agreement to pre-commencement conditions, or provides comments regarding the wording of the suggested requirements.

CODE has also added the standard conditions regarding time period for submission of reserved matters, approved drawings and time limit for commencement of development (should the council be minded to recommend the scheme for approval). These conditions are shown in blue. CODE's comments on the conditions (where necessary) are highlighted in red text.

- 1 The development hereby permitted must be begun before the expiry of three years from the date of this decision.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in complete accordance with the details shown on the site location plan (reference 34580-101 rev B) and site access drawings (references 47268/5501/001 rev P12 and 47268/5501/002 rev P8).

Reason: For the avoidance of doubt.

- 3 Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

- 4 Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 5 The development authorised by this permission shall be carried out in broad accordance with the principles contained in the submitted parameter plans:

- Land use and vehicular access – 34580-301 rev L
- Non-vehicular access – 34580-304 rev C
- Multi-functional open space – 34580-303 rev G
- Building scale – 34580-302 rev J

Reason: To ensure the reserved matters applications maintain the approach set at the outline stage.

- 6 A noise assessment shall be submitted to the Council for approval of external noise levels incl. reflected and re-radiated noise and details of the sound insulation of building envelopes, orientation of habitable rooms away from major noise sources and of acoustically attenuated mechanical ventilation as necessary to achieve internal room- and (if provided) external amenity noise standards in accordance with the criteria of BS8233:2014 - Guidance on Sound Insulation and Noise Reduction for Buildings. No dwelling shall be occupied until the approved sound insulation and ventilation measures have been installed to residential development units in accordance with the approved details. The approved measures shall be retained thereafter in perpetuity. **Condition agreed.**

Reason: To ensure that the amenities of future occupiers are protected.



- 7 A construction management plan shall be submitted to and approved in writing by the Council. Details shall include control measures for dust, noise, vibration, lighting, delivery locations, restriction of hours of work and all associated activities audible beyond the site boundary to 07:00 – 19:00 Monday to Friday daily, 08:00 – 13:00 Saturdays No works to be undertaken on Sundays or bank holidays, advance notification to neighbours and other interested parties of proposed works and public display of contact details including accessible phone contact to persons responsible for the site works for the duration of the works. Approved details shall be implemented throughout the project period. **Condition agreed.**

Reason: To ensure that the amenity of occupiers of surrounding premises is not adversely affected by noise, vibration, dust, lighting or other emissions from the building site

- 8 In respect of any proposed external mechanical plant, the external noise levels emitted from such plant/ machinery/ equipment shall ensure that the rating level of the noise emitted from any proposed installation located at the site shall not exceed the existing background level at any noise sensitive premises when measured and corrected in accordance with BS4142:2014 + A1:2019 “Methods for rating and assessing industrial and commercial sound.”

Any unforeseen ground contamination encountered during development, to include demolition, shall be notified to the Local Planning Authority as soon as is practicable. Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, an appropriate ground investigation and/or remediation strategy shall be submitted to and approved in writing by the Local Planning Authority, and the approved strategy shall be implemented in full prior to further works on site. Following remediation and prior to the occupation of any building, a Completion/Verification Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to and approved in writing by the Local Planning Authority. **Condition agreed.**

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

**Whilst conditions 6-8 are agreed, CODE notes that an implementation clause needs to be included within each condition. CODE is happy for the Council to suggest implementation clauses for CODE and the applicant's review and agreement.**

- 9 No works shall take place until a detailed Green Infrastructure Strategy/ Landscape Strategy for the site, based on the Essex Green Infrastructure Strategy 2020 and Essex GI Standards 2022 and an assessment of the ecological context of the development, has been submitted to and approved in writing by a landscape specialist from the local planning authority. The scheme should include but not be limited to:
- The development should be designed to deliver Biodiversity Net Gain and wider environmental net gains, that forms an important component of nature recovery networks and the wider landscape scale GI network.
  - Demonstrate that the development site/setting has been reviewed for multiple functions and benefits (listed in the Essex GI Strategy (chapter 5.1, page 35) and ensure that green/open spaces are designed to ensure multi- purpose and functional use.
  - Travel Infrastructure should give consideration to use of GI features to ensure accessibility across the site.
  - Ensure there are good accessible links for all from the development to existing settlements, urban centres, rural areas, active travel networks and green spaces.
  - Demonstrate how the GI has been designed to provide recreational facilities for different user and age groups. It should deliver social inclusive processes that are open to all and incorporate the knowledge and needs of diverse parties.



The development shall be carried out and thereafter maintained in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. **Condition agreed.**

Reason: The National Planning Policy Framework 2021 paragraph 8c sets environmental protection and enhancement as one of the 3 objectives of the planning system. Paragraph 98 states that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change.

10 No development shall take place until a Green Infrastructure Plan has been submitted to and approved in writing by the Local Planning Authority. The submitted Plans shall include:

- Details of advance planting around construction sites; and
- The timescale for the implementation of each aspect of Green Infrastructure within that phase of development and details of the quality standard of construction and maintenance.
- Set out how retained GI, such as trees, hedges and vegetation, as well as any nature designated sites (e.g. SSSI's etc.) will be protected during construction. **Condition agreed.**

Reason: Strategic elements of the GI framework are brought forward in phase one of the development, to create a landscape structure or evidence is shown that substantive GI is secured as early as possible in initial phases of delivery to allow early establishment. The phased implementation of new GI of the development construction will allow for the GI to mature and it will provide further benefit of reducing/buffering the aesthetic impact from the construction work.

11 No development shall take place until there has been submitted to and approved, in writing, by SuDS and landscape specialists at the Local Planning Authority a landscape ecological management and maintenance plan and work schedule for a minimum of 10 years.

Details should include who is responsible for GI assets (including any surface water drainage system) and the maintenance activities/frequencies. Details on how management company services for the maintenance of GI assets and green spaces shall be funded and managed for the lifetime of the development to be included. **Condition agreed but note that the management of GI assets and green spaces is proposed to be covered by the creation of an open space management company (please refer to the recently updated draft heads of terms. Therefore, this condition be trimmed to just the requirements for a LEMP.**

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

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

12 The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority. **In similarity with condition 9, this condition is agreed but we consider that it would be best addressed within the Section 106 (in the requirements for the open space management company) and therefore the condition could be removed.**

Reason: To ensure the GI are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure the high-quality and multi-functional benefits of GI assets.



13 No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to 19.1l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party/ All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change.
- Final modelling and calculations for all areas of the drainage system. The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. Medium pollution level should be used for the roads.
- Detailed engineering drawings of each component of the drainage scheme.
- Results of further groundwater monitoring should be provided.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA. **Condition agreed.**

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development. To provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

14 No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved. **Condition agreed.**

Reason: The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.



- 15 Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided. **Condition agreed.**

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

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

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

- 17 All development shall accord with a Construction Management Plan, including any ground works or demolition, to be submitted to the planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:

- i) vehicle routing.
- ii) the parking of vehicles of site operatives and visitors.
- iii) loading and unloading of plant and materials.
- iv) storage of plant and materials used in constructing the development.
- v) wheel and underbody washing facilities.
- vi) Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense where caused by developer.

**Condition agreed.**

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

- 18 Prior to first occupation of the development, the access points at Daws Heath Road and Stadium Way shall be provided as shown in principle on Stantec DWG Proposed general arrangement drawings 47268/5501/002 P8 and 47268/5501/001 rev p12. The vehicular access points shall be constructed at right angles to the highway boundary and to the existing carriageway with an appropriate dropped kerb vehicular crossing of the footway with clear to ground visibility splay. Such vehicular visibility splays of 2.4m x 43m in both directions, shall be provided before the road junctions are first used by vehicular traffic and retained free of any obstruction at all times thereafter. All redundant access points shall be suitably reinstated with full upstand kerb and footway provision. **We consider this condition should be reworded and split into two conditions, as follows:**

- Notwithstanding condition 2, no development shall take place until a detailed scheme for the construction of the site accesses and related highways works has been submitted to and approved in writing by the local planning authority. The scheme shall detail the new access junctions in accordance with the details on plans 47268/5501/001 rev P12 and 47268/5501/002 rev P8. The approved scheme shall include phasing and construction details and shall be implemented in full compliance with the approved details and timetable.



- No other development shall take place until visibility splays of 2.4m x 43m in both directions have been provided at the junctions of the proposed estate roads with Stadium Way and Daws Heath Road in accordance with the details shown on plans 47268/5501/001 rev P12 and 47268/5501/002 rev P8. The splays shall thereafter be maintained free of any obstruction to visibility. All redundant access points shall be suitably reinstated with full upstand kerb and footway provision.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 19 Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway. Consider this condition is covered by the requirements of the Construction Management Plan and can therefore be removed.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 20 Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times. Condition agreed.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 21 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary. Condition agreed.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 22 Vehicle parking shall accord with the requirement of the EPOA parking standards and as such each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres. All single garages should have a minimum internal measurement of 7m x 3m, all double garages should have a minimum internal measurement of 7m x 5.5m to be considered in the parking numbers. Visitor Parking shall be provided throughout the development. Condition agreed.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 23 Prior to occupation of the proposed residential development the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for every household for sustainable transport, to include 6 day travel ticket for bus travel from the development site, approved by Essex County Council.

We consider this condition should be reworded as follows:





No residential development shall be occupied until an updated Residential Travel Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. This will be based on the Residential Travel Plan prepared by Stantec dated November 2022, submitted with the outline planning application, to include mode share targets and management arrangements, along with a Residential Travel Information Pack for new residents that will include a 6-day travel ticket for bus travel from the development site.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

- 24 Any tree planting proposed within the highway must be agreed with the Highway Authority. Trees must be sited clear of all underground services and 2m back visibility splays and must be sympathetic to the street lighting scheme. All proposed tree planting must be supported by a commuted sum to cover the cost of future maintenance, to be agreed with the Highway Authority. **Condition agreed.**

Reason: To avoid the interference with visibility splays and lighting of the highway in the interest of highway safety in accordance Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 25 Prior to occupation of the proposed residential development a phased payment financial contribution of £1,150,000 towards bus service enhancements along the Daws Heath Road corridor (route 3) to improve frequency/accessibility and routing to/from the site to services, facilities and areas of employment. **We consider that the provisions of this condition should be covered in the Section 106. The provision of a contribution towards the improvement of bus services is included within the recently submitted updated draft HoTs. Please see section 24 of the submitted updated draft Heads of Terms for the S106.**

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

- 26 Prior to occupation of the proposed development, bus infrastructure enhancements shall be provided to upgrade existing facilities on Daws Heath Road to include raised kerbs and shelters with Real Time Information, where necessary, to the east of the access. Both sets of improvements shall be completed at the expense of the developer and to the satisfaction of the Highway Authority. **CODE considers that the requirements of this condition are addressed by the provisions of condition 23 – and subsequently, feel this is best addressed within the Section 106. Please see section 24 of the submitted updated draft Heads of Terms for the S106.**

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

- 27 Prior to first occupation of the proposed development, the approved travel plan shall then be actively implemented for a minimum period from first occupation of the development until 1 year after final occupation. It shall be accompanied by an annual monitoring fee of £2817 (index linked), to be paid to Essex County Council. **The monitoring fee can be appropriately handled within the Section 106. Please note that section 26 outlines a monitoring fee for each County Council obligation. With regard to the wording of the condition, further to our comments on condition 21, we consider the condition should be reworded as follows:**

**The approved Residential Travel Plan shall be actively implemented in accordance with the details set out in the approved Travel Plan.**



Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

- 28 Prior to first occupation of the proposed development a parcel of land along the full length of the site on the eastern side of Rayleigh Road shall be transferred, free of charge and easements to the Highway Authority for the future provision of highway related improvements along the Rayleigh Road corridor. **The parcel of land has not been defined, and the County Council has not outlined a specific scheme to demonstrate how the land to be transferred would be used. The applicant would welcome further clarification on this condition before this can be agreed with the County Council.**

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

- 29 Connection to the existing Public Rights of Way network footpath 7 shall be provided both on the northern boundary (providing access to the employment zone) and eastern side (providing access to nature reserve). Both sets of improvements shall be completed at the expense of the developer and to the satisfaction go the Highway Authority with any new planting to be set back at least 2m away from the edge of the footpath to ensure sufficient width is provided for future growth and to prevent unwanted encroachment. **Condition agreed.**

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

- 30 Prior to occupation of the proposed residential development a financial contribution towards A129 corridor enhancements to upgrade existing services / creation of new cycling routes as deemed necessary and approved by Essex County Council. **First, any financial contributions would best be addressed in the Section 106. In addition, any financial contribution would need to be clearly defined to establish how the monies sought would be used for improvements along the A129 corridor, and to ensure that such a request is compliant with the relevant tests for planning obligations (reasonably related in scale and kind to the development, necessary to make the development acceptable and directly related to the proposals).**

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

- 31 No development or preliminary groundworks shall commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a Written Scheme of Investigation which has previously been submitted by the applicant and approved by the planning authority. **Condition agreed.**

Reason: Archaeology must be identified prior to the commencement of development to ensure that archaeological investigation is initiated at an appropriate point in the development process and that any areas of archaeological preservation are identified and appropriately recorded/preserved and the results published in accordance with Section 16 of the National Planning Policy Framework.

- 32 A mitigation strategy detailing the excavation/preservation strategy for any archaeological deposits shall be submitted to the local planning authority following the completion of this work. **Condition agreed.**

Reason: Archaeology must be identified prior to the commencement of development to ensure that archaeological investigation is initiated at an appropriate point in the development process and that any areas of archaeological preservation are identified and appropriately recorded/preserved and the results published in accordance with Section 16 of the National Planning Policy Framework.





- 33 No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been previously approved by the local planning authority in consultation with its historic environment advisors. **Condition agreed.**

Reason: Archaeology must be identified prior to the commencement of development to ensure that archaeological investigation is initiated at an appropriate point in the development process and that any areas of archaeological preservation are identified and appropriately recorded/preserved and the results published in accordance with Section 16 of the National Planning Policy Framework.

- 34 The applicant shall submit to the local planning authority a post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report. **Condition agreed.**

Reason: Archaeology must be identified prior to the commencement of development to ensure that archaeological investigation is initiated at an appropriate point in the development process and that any areas of archaeological preservation are identified and appropriately recorded/preserved and the results published in accordance with Section 16 of the National Planning Policy Framework.

- 35 A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority, in line with the Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023) and the Addendum to Ecological Impact Assessment (Southern Ecological Solutions Ltd, April 2023).

The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority. **Condition agreed.**

Reason: To conserve Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

- 36 A Badger Method Statement shall be submitted to and approved in writing by the local planning authority. This will contain finalised mitigation measures and/or works to reduce potential impacts to Badger during the construction phase, including the finalised location and details of the artificial badger sett.



The measures and/works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter. **Condition agreed. We note the comments of the Essex Badger Protection group and consider that their requirements will be covered by this condition. If the council wished to make the condition more precise, it could refer to the mitigation measures contained within the submitted Ecological Impact Assessment – Rev D (SES, April 2023).**

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats species).

- 37 Any works which will impact the resting place of bats, shall not in in any circumstances commence unless the local planning authority has been provided with either:
- a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
  - evidence of site registration supplied by an individual registered to use a Bat Mitigation Class Licence; or
  - a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

**Our appointed ecological consultants have advised that, in their experience, Natural England will not write back as set out in the third bullet point above and therefore it is for the ecological consultant to decide whether a licence is required or not i.e. if it is not then there is no need to contact Natural England. The requirement for a statement from Natural England could potentially cause unknown/unpredictable delays. We consider an appropriate compromise could be as follows, so that the third bullet would read as follows:**

**“A statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence. If a response from Natural England is not received in 56 days, a statement from a suitably qualified ecologist will suffice.”**

Reason: To conserve protected species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s17 Crime & Disorder Act 1998.

- 38 A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to commencement of the development.

The content of the LEMP shall include the following:

- Description and evaluation of features to be managed.
- Ecological trends and constraints on site that might influence management.
- Aims and objectives of management.
- Appropriate management options for achieving aims and objectives.
- Prescriptions for management actions.
- Preparation of a work schedule (including an annual work plan in line with the finalised biodiversity metric).
- Details of the body or organisation responsible for implementation of the plan.
- Ongoing monitoring and remedial measures.



The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details. **Condition agreed.**

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species)

- 39 Concurrent with reserved matters, a finalised Biodiversity Net Gain Plan shall be submitted to and agreed in writing by the Local Planning Authority. The net biodiversity impact of the development shall be measured in accordance with the agreed Biodiversity Metric as applied in the area in which the site is situated at the relevant time.

The content of the Biodiversity Net Gain Plan should include the following:

- Proposals for the on-site biodiversity net gain;
- A management and monitoring plan for onsite biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2, 5, 10, 15, 20, 25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed.

The development shall be implemented in full accordance with the requirements of the approved Biodiversity Net Gain plan. **Condition agreed.**

Reason: To allow the development to demonstrate measurable biodiversity net gains and allow LPA to discharge its duties under the NPPF and s40 of the NERC Act 2006 (Priority habitats & species).

- 40 Prior to any works above slab level, a Biodiversity Enhancement Strategy for bespoke biodiversity enhancements, prepared by a suitably qualified ecologist in line with the recommendations of the Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023), shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- Purpose and conservation objectives for the proposed enhancement measures;
- Detailed designs or product descriptions to achieve stated objectives;
- Locations, orientations and heights of proposed enhancement measures by appropriate maps and plans (where relevant);
- Persons responsible for implementing the enhancement measures; and
- Details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter. **Condition agreed.**



Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

- 41 A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority. **Condition agreed.**

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

- 42 On site measures to avoid impacts from the development alone from recreation disturbance to the Foulness Estuary SPA and Ramsar site, Benfleet and Southend Marshes SPA and Ramsar site, the Blackwater SPA and Ramsar site & Essex Estuaries SAC shall be submitted to, and be approved in writing by, the local planning authority prior occupation of the development. The content of the of the onsite measures will be in line with the approved Habitats Regulations Assessment and shall include the following:

- Purpose and conservation objectives for the proposed measures;
- Detailed designs of the interpretation board and leaflets;
- Timetable for implementation demonstrating that measures are aligned with the proposed phasing of development.
- Locations of proposed interpretation boards by appropriate maps and plans; and
- Details of initial aftercare and long-term maintenance.

The measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter. **Condition agreed.**

Reason: To avoid Adverse Effects on the Integrity to the Foulness Estuary SPA and Ramsar site, Benfleet and Southend Marshes SPA and Ramsar site, the Blackwater SPA and Ramsar site & Essex Estuaries SAC and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended).