



Appeal Decision

Hearing Held on 8 July 2021

Site visit made on 9 July 2021

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2021

Appeal Ref: APP/V1505/W/20/3251827 3-31 Runwell Road, Wickford, SS11 7HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Explore Living Ltd against Basildon District Council.
 - The application Ref 19/01502 is dated 25 October 2019.
 - The development proposed is described as erection of two, 6 storey blocks to provide 123 apartments (76 one bedroom and 47 two-bedroom units) with part basement/part elevated car park to provide 113 parking spaces with associated infrastructure.
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Decision

1. The appeal is allowed, and planning permission granted for erection of two 6 storey blocks to provide 122 apartments (76 one bedroom and 46 two-bedroom units) with a part basement/part elevated car park to provide 132 parking spaces with associated access and infrastructure at 3-31 Runwell Road, Wickford, SS11 7HG in accordance with the terms of the planning application Ref: 19/01502 dated 25 October 2020 subject to the conditions set out in the attached schedule.

Application for costs

2. At the Hearing an application for costs was made by Explore Living Ltd against Basildon District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. It was agreed at the hearing that the description of development was changed from that given on the application form to '*erection of two 6 storey blocks to provide 122 apartments (76 one bedroom and 46 two-bedroom units) with a part basement/part elevated car park to provide 132 parking spaces with associated access and infrastructure*'. I have therefore used this description in the decision set out above.
4. A previous planning permission for a block of flats on the site was granted on appeal on 24 May 2007¹. The previous scheme comprised of a single, 6 storey block, with a pitched roof that was slightly taller than the current appeal proposal and in a similar position in relation to the road. The appellant has argued that the permission is still extant as a commencement has been made

¹ Planning application ref no: 06/00001/FULL, appeal ref: APP/V1505/A/06/2026185

on site and therefore should be regarded as a fall-back position, should the appeal before me fail. The Council in their appeal submissions have argued that existence or otherwise of this permission can only be tested through the grant of a Certificate of Lawfulness of an Existing Use or Development (a Certificate of Lawfulness) and there is no such application before me. Consequently, without a Certificate of Lawfulness there is no certainty that the previously approved scheme can be implemented. However, I will have regard, where appropriate, to the evidence which has been submitted on this matter and give it appropriate weight where necessary.

5. During the appeal process a signed, but undated, obligation was received in the form of a unilateral undertaking (UU) in accordance with S106 of the Town and Country Planning Act 1990. The UU commits the appellant to provide a contribution to a number of facilities and services defined in the Committee Report. A signed and dated copy of the UU was received after the hearing. I shall return to the compliance of the UU with section 122 of the Community Infrastructure Levy Regulations 2010 (the Regulations) and the tests at paragraph 57 of the National Planning Policy Framework (the Framework) later in this decision.
6. The planning application was made by 'Explore Living Ltd', however the appeal is in the name of Mr Rob Mackay of Julia Mackay properties. The legislation states² that only the person who has made the planning application can appeal against the refusal of that planning permission. However, it has been established through an exchange of correspondence that Julia Mackay Properties have been authorised by 'Explore Living Ltd' to lodge an appeal on their behalf. Therefore, I am satisfied that the appeal is made by the person who made the planning application.
7. Following the hearing a revised National Planning Policy Framework (the Framework) was published. I wrote to the main parties in order to assess whether the revised Framework had any bearing on the cases they main at the hearing. I received no responses in relation to this request. I have, however taken account of the revised Framework in this decision.

Background and Main Issue

8. The appeal is made against the failure of Basildon District Council to give notice within the prescribed period of a decision on the application for planning permission. As such no notice refusing planning permission for the appeal proposal was issued by the Council. However the Council have, as part of the appeal documents, indicated that they would have refused planning permission for the appeal proposal on the following grounds; *'That the proposed development would by reason of its height, scale and massing and general design result in an intrusive addition harmful to the character and appearance of the area and fails to create a high quality, well designed development contrary to the requirements of the NPPF, Policy BE12 of the Basildon District Local Plan Saved Policies (2007) and Policy DES1 of the Basildon Borough Revised Publication Local Plan 2014-2034 (Oct 2018).'*

² S78 Town and Country Planning Act 1990

9. Therefore, the main issue at this appeal is the effect of the development on the character and appearance of the area by reason of its height, scale massing and general design.

Reasons

Character and appearance of the area

10. The appeal site lies on Runwell Road which is a primary route into Wickford Town Centre. Further towards the town centre it becomes the main shopping street in the town. It is therefore an important gateway site on the edge of the town centre. Its development will influence how the town centre is viewed by people approaching from this direction.
11. The area within which the appeal site is located contains low-rise commercial buildings, late 20th century three storey flat roofed shops with flats above, together with what appear to be 19th/early 20th century shops and a pub. Outside its immediate vicinity are suburban style houses in Swan Lane and a building of 6/7 stories on Golden Jubilee Way (A132). In its immediate vicinity the presence of open fronted uses such as the petrol filling station and vacant sites mean that there is no sense of enclosure or structure to the street scene. Moreover, none of the individual buildings nor their relationship with each other give the area a specific character. Consequently, the part of Runwell Road where the appeal site is located lacks any defining character.
12. The appeal site is currently flat, and scrub covered. It is surrounded by hoardings and accessed from Runwell Road. From the evidence I have seen and heard it has been vacant for a number of years having been previously occupied by a motor vehicle related use. As a result, its current condition contributes to the lack of character in the area.
13. The appeal proposal would introduce two, 6 storey apartment blocks close to the back edge of the pavement with a centrally located vehicular access. The blocks would be finished in two colours of brick. The blocks would have their top floors set back which would help to give variety to the elevations. On the ground floor the apartments would be accessed directly from Runwell Road and each would be provided with a small patio garden, thus creating active frontages along the street. Consequently, the proposed development would make a positive impact on the character and appearance of the area by providing a sense of enclosure along this important approach to the town centre. Furthermore, by providing variation in the proposed elevations in the form of setbacks, balconies, the use of two colours of brick and the creation of active frontages at ground floor level it would create interest and variety in the street scene.
14. Despite being significantly higher than other buildings on Runwell Road their height would give the buildings presence in the locality. It would also assist in reinforcing this part of Runwell Road as a clear gateway to Wickford Town Centre. It would mirror other buildings of a similar size and scale that have recently been constructed on approaches to the town centre. I therefore do not consider that the height, massing, and scale of the buildings to be harmful to the character and appearance of the area.
15. It was agreed at the hearing that saved Policy BAS BE12 of the Basildon District Local Plan adopted in March 1998 (BDLP) was relevant to this appeal,

together with Policies DES 1, DES 3, and DES 4 of the Basildon Borough Revised Publication Local Plan (2014 – 2024) (BBLP). The BBLP was published in October 2018, however it is yet to complete its Examination and be formally adopted. However, given the consistency of these policies to the Framework, it was agreed that they should be given moderate weight in this appeal.

16. Policies DES1, DES3 and DES4 of the BBLP seek to achieve good design, enhance urban character, and deliver high-quality buildings. The appeal building would represent a modern design which would contribute positively to the area's visual and architectural character by completing the urban form in the area and providing a building which would act as a landmark at the entrance to the town centre. The proposed use of brick as the primary facing material for the building would reflect similar material used on other buildings in the locality and elsewhere in the town centre. Moreover, it would have a distinct public frontage with access directly from the ground floor apartments to the street. In these respects, I find that the appeal proposal is consistent with these policies of the emerging BBLP.
17. Policy BAS BE12 of the BDLP is from a local plan that dates from the late 1990's, it was 'saved' in the late 2000's. However, despite being negatively worded the Policy is still broadly consistent with the Framework, as it seeks to encourage good design and achieve well-designed places. I therefore give this policy substantial weight in the determination of this appeal.
18. I therefore find that the development is consistent with the Policies of the BDLP and the emerging Policies of the BBLP for the reasons given above. It would have a positive effect on the character of the surrounding area by introducing buildings which would bring a significant presence to a principal approach to Wickford town centre and help establish a coherent urban form in the locality.

Other Matters

Planning Obligation

19. The appellant has submitted a UU which seeks to address matters raised in the Council's Committee report. These matters are related to affordable housing, healthcare, education, public transport, sports provision, habitat impact mitigation, local employment and skills training and monitoring.
20. I requested prior to the hearing a compliance statement to confirm that the proposed contributions met the test set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and those outlined at paragraph 57 of the Framework. These tests require that planning obligations are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The compliance or otherwise of the obligations set out in the UU was also considered at the hearing.

Provision of a contribution towards affordable housing

21. The requirement for affordable housing are set out in the policies of both the BDLP and the BBLP. The need for affordable housing in the District would have been established at the plan making stage. It is clear from both the BDLP and the emerging BBLP that there is a need for affordable housing in the District. In the emerging BBLP it is stated that 6,274 affordable homes are needed in the plan period which is around 31% of the total housing need. Therefore, in the

light of the policies in the adopted local plan and the evidence of a continuing need for affordable housing in the District set out in the emerging BBLP, I find that the provision of the UU in relation to affordable housing is necessary to make the development acceptable in planning terms.

22. In terms of the second test Policy S5 of the BDLP expect new housing developments which provide 25 homes or more to make a contribution towards affordable housing need within the District. This is normally set at between 15% to 30% and can be subject to negotiation. The policy also makes provision for a financial contribution to off-site delivery. The emerging BBLP also requires new residential development to provide affordable housing. Therefore, it is clear to me that the requirement for the appeal proposal to make a contribution to affordable housing within the District is directly related to the proposed development.
23. The proposed contribution would lead to a lower provision of affordable housing than required by the BDLP. Moreover, the emerging BBLP carries forward affordable housing policies at Policy H26. It would require an increase in affordable housing on the site for the appeal proposal to be fully policy compliant. I also note that the amount of affordable housing proposed has been subject to negotiation between the appellant and the Council. In view of the viability issues the Council has agreed a lower contribution towards affordable housing. Whilst the appellant has questioned the effects of the contribution on the viability of the scheme, they have nonetheless agreed to a contribution based on these negotiations. Consequently, I find that the obligation relating to the provision of affordable housing meets the third test set out in Regulation 122.

Contribution towards local healthcare

24. It is clear from the evidence that the appeal proposal would add to the pressure on local health services. It is therefore necessary in planning terms for the development to contribute towards the additional pressure it would bring to local health services. In this respect the contribution is also directly related to the development. It is also common that a standard formula is applied to calculate the amount of the contribution. Consequently, I find that the obligation for a contribution to healthcare meets the tests set out in the Regulations and the Framework.

Contribution to the Dick Patmore Memorial Sports Ground

25. It is clear to me that the tennis courts would experience an increased level of overshadowing by the appeal proposal. That could reduce the usability of the courts at certain times of the year and at certain times of the day due to the building's height and its proximity to the boundary. The current level of usability of the courts could be maintained if mitigation measures were put in place. These measures could include increased maintenance, the installation of better flood lights or the increased use of the existing flood lights. Policy DE12 makes reference to overshadowing by proposed development. Consequently, it is necessary in order to make the proposed development acceptable that any overshadowing it causes is adequately mitigated.
26. In implementing these measures there would be a cost to the club both to install any new floodlights, the cost of additional use of any flood lighting and the cost of additional maintenance of the existing courts. I therefore find that

the obligation is necessary to make the development acceptable in planning terms and it is directly related to the proposed development.

27. In view of the need to mitigate the effects of the proposed development on the tennis courts through the possible need to either install or upgrade existing flood lights, increase their use, and enhance the maintenance regime I also find that the proposed amount of the contribution is fairly and reasonably related in scale and kind to the development.

Education contribution

28. It has been agreed by the parties that the proposed development would increase further pressures on school places in the area. The obligation therefore meets the first two test set out in the regulations in that it is necessary and directly related to the development. The contribution has been calculated according to a standard formula and this formula has been accepted by the appellant. I therefore find that the obligation to contribute towards education provision in the area meets the tests set out in the Regulations and the Framework.

Public Transport contribution

29. Given the proximity of the site to bus and rail services, it is likely that the occupants of the proposed development will put additional pressure on public transport services in the area. Furthermore, Essex County Council has recognised that with the growth of the Borough once the BBLP is adopted, further pressure will be put on the public transport system in the area. As a result, it is seeking contributions from sites to improve public transport in the area to assist in the modal shift from cars to public transport. The calculation of the contribution appears to be formula based.
30. Consequently, I find that an obligation to provide a contribution to public transport in the area is necessary to make the development acceptable in planning terms, is directly related to the development and fairly and reasonably related in scale and kind to the proposed development.

Essex Coast Recreation disturbance and Mitigation Strategy (RAMS) - contribution

31. The Council has adopted a Supplementary Planning Document (SPD) that requires a contribution from residential developments in the District towards the implementation of a strategy designed to mitigate the impact of the development on Habitat Sites. The site is within the Zone of Influence (ZOI) of these sites and therefore could have a likely significant effect on these sites due to increased visitor pressure. The size of the contribution is formula base. It would be used for off-site visitor management measures which would mitigate the impact of the visitors from the proposed development on the designated Habitat Sites. I therefore find that the proposed contribution meets the tests set out in the Framework and the Regulations.

Use of local labour

32. The Council has a key priority to help provide employment, skills, and training opportunities for local residents. A proposal of this scale and in this location would assist in delivering such opportunities. There is no monetary contribution required from the developer to comply with this obligation. However, the obligation would lead to the employment and training of local labour, the

procurement of goods and services locally and therefore create job opportunities locally and reduce local economic inactivity. I find that it complies with the tests set out in the Framework and the Regulations.

Administration and monitoring costs contribution

33. This is an extra cost the Council would incur if the proposed development were to be implemented with the associated UU in place. It is reasonable that the obligation is monitored, and the sum required is modest. I therefore find that this obligation meets the tests set out in the Regulations, particularly Regulation 10, and the Framework.

Viability

34. It is accepted by the Council and the appellant that there are viability issues with schemes of this size and nature in Wickford. However, the main viability issue comes from the requirement for the scheme to provide a contribution to the provision of affordable housing. It is clear that this has been the subject of negotiations between the Council and the appellant. It is equally clear that the sum involved would not provide the quantum of affordable housing required by either the policies of the adopted or emerging local plan.

35. The affordable housing policy in the adopted BDLP has been in place for a considerable number of years and is based on evidence collected at the time. The affordable housing policy in the emerging BBLP is based on up-to-date information and reinforces the need for affordable housing in the District. Therefore, the policy requirement for affordable housing to be provided within the scheme would have been known by the appellant for a considerable time.

36. The Planning Policy Guidance (PPG) states that assessments of viability should be undertaken at plan level. It is clear that the emerging BBLP has been assessed to ensure that its policies and proposals are viable, albeit that there is a recognition that there are viability issues with flatted developments in Wickford. The Council has recognised this and has sought to negotiate a smaller off-site contribution for affordable housing. In this respect I consider that the viability of the scheme has been taken into account.

37. The required contributions without the contribution to affordable housing are more modest and are close to the level where the scheme would become viable. Moreover, the appellant has completed a UU in which they undertake to pay all the required contributions on a 'commercial basis'. I therefore find that the viability issues which have been referred to would not be an impediment to the implementation of the scheme.

Compliance with the Conservation of Habitats and Species Regulations 2017

38. The site lies within the ZOI of the Essex Coast Habitat Sites³. Whilst it is acknowledged in the evidence that it will not have a direct effect on these sites, as there are no Habitat Sites in Basildon District, it is likely to have a significant effect in combination with other developments in the County. In order to provide mitigation for these effects the Council has adopted a SPD which seeks

³ Essex Estuaries Special Area of Conservation (SAC), Hamford Water Special Protection Area (SPA), Stour and Orwell Estuaries SPA and Ramsar Site, Colne Estuary SPA and Ramsar Site, Blackwater Estuary SPA and Ramsar Site, Dengie SPA and Ramsar Site, Crouch and Roach Estuaries SPA and Ramsar Site, Foulness Estuary SPA and Ramsar Site, Benfleet and Southend Marshes SPA and Ramsar Site.

to take a financial contribution from qualifying developments. These contributions would be pooled and used to provide such things as a ranger service, fencing and way marking, restrictions on access to certain locations and habitat creation. This approach is recommended by the Statutory Nature Conservation Body (SNCB), Natural England (NE), who have also offered advice to the Essex Councils on the type of relevant developments to which the tariff approach should apply.

39. In order to comply with the requirements of the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations) a competent authority needs to carry out a project level Habitat Regulations Assessment in order to assess whether the project, in this case the appeal proposal, would have a 'likely significant' effect on the integrity of the Habitat Site/s.
40. The Habitat Regulations Assessment, supplied at the hearing, demonstrated that the appeal proposal would have a likely significant effect upon the interest features of the designated habitat sites. Therefore, an Appropriate Assessment (AA) to assess the recreational disturbance impacts on the designated sites was necessary.
41. The AA the Council carried out appears to be based on a scheme that delivered less than 100 houses or equivalent. It is clear that the appeal proposal would provide 122 new dwellings (the RAMS SPD defines flats as dwellings⁴) and therefore NE should have been consulted in accordance with the guidance issued by NE.
42. At this appeal I am the competent authority who needs to carry out the HRA. I have had regard to the assessment already carried out by the Council, and as such, I cannot rule out any possible likely significant effects either alone or in combination on the special interest features of the habitat sites on the Essex Coast from the appeal proposal.
43. The special interest features of the sites are defined in the RAMS SPD as the coastal habitats of breeding or non-breeding birds. The primary effect of the development will be increased recreational pressures on these sites through the introduction of more people into the ZOI. Therefore, it cannot be ascertained that the proposal will not adversely affect the integrity of the sites.
44. As the appeal proposal would also be for more than 100 dwellings, I have consulted NE as the relevant SNCB. NE have responded stating that the proposal falls within the scope of the Essex Coast RAMS. In terms of NE advice, it is clear that any adverse effects of developments such as the appeal proposal should be dealt with at a strategic level and would include a financial contribution towards mitigation measures within the coastal designated site. Therefore, it is clear to me that by complying with the guidance set out in the SPD and agreeing to a financial contribution towards mitigating the effects of the appeal proposal on the integrity of the Habitat Sites, it would not adversely affect the integrity of the site/s. Consequently, should I be minded to allow this appeal, planning permission could be granted subject to the provisions of the completed obligation.

⁴ Paragraph 3.6 Essex Coast Recreational disturbance Avoidance and Mitigation Strategy, Supplementary Planning Document (SPD), May 2020

Refuse strategy

45. The Council has raised the issue of the collection of refuse from the proposed development, in particular the width of the proposed route between the bin storage area and the street, the distance between the bin storage area and the street and the amount of time a refuse freighter might be stationary on the public highway and the effect this might have on traffic and traffic safety.
46. 'Manual for Streets'⁵ states at paragraph 6.8.9 that waste collection vehicles should be able to get to within 25m of the storage point. In addition, the Council and appellant recognise that the proposed width of the access between the storage area and the street would meet the minimum required. Whilst the revised plans show some soft landscaping being removed to accommodate this arrangement these would be low level and have very little impact on the street scene. Consequently, I am satisfied that revised access arrangements shown on plan number 5490_PA_10 Rev C would make adequate provision for the collection of waste from the appeal proposal and would not harm the appearance of the proposal.
47. It is not uncommon for refuse freighters to be stationary on the public highway when refuse is being collected and this will inevitably hold up traffic to a certain extent. In terms of the appeal site the road immediately adjacent to where it is proposed to load the refuse on the freighter is relatively wide and therefore would allow traffic to pass. I therefore consider that the collection of refuse from the appeal proposal will not cause unacceptable delays to traffic and neither would it present an unacceptable danger to those using the public highway.

Effect on the living conditions of the occupants of nearby properties

48. At the hearing parties referred me to the effect of the appeal proposal on the living conditions of the residents of Swan Lane, in particular the loss of privacy in their gardens due to the height of the appeal buildings. I have had regard to this matter both through a careful examination of the appeal plans and at the site visit. Whilst I can understand the concern, having regard to the orientation of the appeal building (at 90 degrees to Swan Lane) and the distances involved, I do not consider that the appeal proposal would unacceptably affect the privacy of people living in the houses on Swan Lane.

Housing Land Supply

49. It has been agreed through the statement of common ground that the Council cannot demonstrate a 5-year supply of deliverable housing sites nor have they demonstrated delivery of new housing in line with the Housing Delivery Test over the last three years. I will deal with this matter as part of the planning balance below.

Planning Balance

50. The benefits of the appeal proposal are that it utilises a vacant site; it would provide a landmark building on a primary access to the town centre; and it would establish a built frontage and assist in providing a sense of enclosure in

⁵ 'Manual for Street', Welsh Assembly Government, Communities and Local Government and Department for Transport, 2007

an area that lacks a specific character. In terms of the buildings themselves, they would add interest and variety to the street scene by providing residential units at the ground floor, use setbacks to break up the bulk and massing of the building, and be constructed of brick and provide balconies for each of the apartments. I give these matters substantial weight in the determination of this appeal.

51. In addition, it would add to the deliverable supply of housing sites within the District. I note that the appellant has raised the issue of the lack of a 5-year supply of deliverable housing sites within the Borough and the under delivery of housing against the requirement for three of the last five years. In view of this position on housing land supply and delivery I give substantial weight to the contribution the appeal proposal would make to the delivery of new houses in the District.
52. The appeal proposal would also make a contribution to the delivery of affordable housing in the Borough. I give moderate weight to this contribution bearing in mind the need for affordable housing set out in the evidence and that the contribution is below that required by the policies.
53. Whilst the buildings would to a certain extent have an overbearing effect on the tennis courts to the rear and to a lesser extent on the cricket pitch, in view of the mitigation measures proposed I give this limited weight in this decision.
54. I have noted the concern regarding the refuse freighter having to wait on the public highway whilst collecting the refuse from the site and the effect this might have on traffic on Runwell Road. However, and for the reasons given above I give this minimal weight in this decision.
55. Section 38(6) of the Planning and Compulsory Purchase Act 1990 requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that the appeal proposal is consistent with saved Policy BE12 of the BDLP and Policy DES1 of the emerging BBLP in that it would improve the character and appearance of the area with a high-quality design for the reasons set out above.
56. Therefore, I find that the benefits of the proposed development far outweigh the harm that has been identified and the proposed development accords with development plan. Consequently, it should be approved without further delay.

Conditions

57. In addition to the conditions regarding the time limits for development and referencing the approved drawings I consider the following conditions are necessary.
58. With regard to the approved drawings whilst these adequately illustrate the site layout, floor plans and the elevation facing on to Runwell Road they do not reference the other elevations. Whilst it is clear from the plans where the windows and other external features would be located, a condition is needed so that comprehensive elevational details are approved prior to any above ground works commencing. This condition is necessary in the interests of clarity.
59. Refuse collection has been referred to at the appeal and it is clear that the route for the collection of bins from the site has altered since the proposal was

- considered by the Council. Therefore, plan No 5490_PA_10 Rev C needs to be referenced in order to reflect the actual proposed arrangements for refuse collection.
60. Conditions controlling external facing materials and landscaping are necessary in order to ensure that the building and site are finished in a way that respects the street scene and its location.
 61. Whilst the Council has suggested a condition seeking to control the clearance of vegetation on the site, having visited the site and seeing that there is very little vegetation of a substantial nature present, I find that this condition is not necessary in order to make the development acceptable.
 62. In order to ensure that the development as a whole assists in contributing to the natural environment of the District a condition relating to the provision of bird boxes is necessary.
 63. Conditions are required to control the surface water drainage including those related to the maintenance of the drainage infrastructure in order to ensure that any flood risk brought about by the development is adequately mitigated.
 64. In view of the previous use of the site conditions are required in order to deal with any contamination that might be present on the site.
 65. A condition is necessary in the interests of highway safety to ensure that adequate visibility splays are provided at the entrance to the proposed development.
 66. Conditions are necessary to ensure that adequate provision is made for car and bicycle parking on the site so that pressure is not placed on other parking provision in the area.
 67. The provision of electric vehicle charging points are necessary to encourage the switch to electric vehicles and thereby assist in reducing carbon emissions.
 68. A condition requiring the provision of travel packs within the proposed apartments is necessary to encourage the use of more sustainable modes of transport.
 69. A condition regarding the energy efficiency of the proposed apartments is necessary in order to ensure that the carbon emissions from the finished building are minimised.
 70. As there is agreement that the proposed dwellings meet the requirements of the Nationally Described Space Standards (NDSS) and there is a condition which references the approved plans, a condition requiring compliance with the NDSS is therefore unnecessary.
 71. A condition is necessary to ensure that all the apartments have access to superfast broadband in order to ensure that the residents can access online services.
 72. A condition is necessary to ensure that the Council retain control of individual satellite dishes that might be attached to the exterior of the building in order to maintain a satisfactory external appearance.

73. Conditions are necessary to protect any future resident of the building from noise nuisance which might be caused by the presence of the electrical substation on the adjacent site and to ensure that these measures are effective.

Conclusion

74. The appeal is therefore allowed.

Peter Mark Sturgess

INSPECTOR

Appearances

APPELLANT

Lisa Skinner	Planning Consultant
Sarah Hare	Planning Solicitor
Steven Hopkins	Planning Solicitor
Phil Branton	Architect
Glen Richardson	Urban Designer
Rob McKay	Appellant
Clive Bentley	Noise Consultant
Tom Murphy	Transport Planner
Kelvin Kift	Viability Assessment

COUNCIL

Charles Sweeney	Development Team Manager
Lisa Richardson	Senior Planner

INTERESTED PARTIES

Eunice Brockman	Local Resident
Clare Gregory	Local Resident
Cllr David Harrison	Local Resident

DOCUMENTS PRESENTED AT THE HEARING

1. The Council's Habitat Regulations Assessment
2. Essex Coast Recreational disturbance Avoidance and Mitigation Strategy – Supplementary Planning Document (SPD), May 2020.

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permissions.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 5490_PA_01; 5490_PA_10 Rev C; 5490_PA_11 Rev B; 5490_PA_12 Rev B; 5490_PA_13 Rev B; 5490_PA_14 Rev B; 5490_PA_15 Rev B; 5490_PA_16 Rev B; 5490_PA_17 Rev B; 5290_PA_23 Rev A; 5490_PA_50.
3. No development (excluding site clearance and 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:
 - Limiting discharge rates to 3.8l/s for all storm events up and including the 1 in 100-year rate plus 40% allowance for climate change
 - 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.
 - Final modelling and calculations for all areas of the drainage system.
 - The appropriate treatment level of all runoff leaving the site, in line with the Simple Index approach found in CIRA SuDS Manual C753. There should be sufficient up stream treatment before any storage features. Full details of treatment should be provided.
 - Detailed engineering drawings of each component of the drainage scheme.
 - 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.
4. No development (excluding site clearance and demolition) shall take place until the pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage, and are restored to a fully working condition.
5. No development above ground (excluding site clearance and demolition) shall take place until plans, at not less than 1:200, showing full details of all the elevations of the proposed blocks have been submitted to and approved

in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved plans.

6. No development above ground level (excluding site clearance and demolition) shall take place until details/samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials.
7. No development above ground level (excluding site clearance and demolition) shall take place until a scheme showing those areas to be hard landscaped and the details of that hard landscaping have been submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented in full prior to the first occupation of the development and thereafter permanently retained.
8. No development above ground floor slab level shall take place until a scheme of acoustic protection has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall consider and include where appropriate the following measures to meet the necessary noise levels in the habitable rooms referred to in the following paragraphs and table below:

Acoustic treatment around the electricity sub station

Acoustic treatment to the habitable rooms

Details of the air source heat pumps

The development shall not be carried out other than in accordance with the approved scheme.

The scheme shall be sufficient to ensure that the level of sub-station noise within the habitable rooms does not exceed the levels presented in Table 1 below by more than 5dB which reflect the proposed low frequency noise assessment reference values presented in DEFRA report, 'Procedure for assessment of low frequency noise complaints' NANR45:2005.

Frequency HZ	10	12.5	16	20	25	31.5	40	50	63	80	100	125	160
Leq dB (5 Min)	92	87	83	74	64	56	49	43	42	40	38	36	34

9. The development shall not be occupied until the performance of the acoustic treatment implemented in accordance with condition 26 has been tested by a suitable qualified noise consultant and the results of that testing submitted for approval to the Local Planning Authority. The testing shall demonstrate compliance with the targets set out in condition 26. Where testing results indicate that targets have not been met, a scheme for additional acoustic protection shall be submitted pursuant to condition 26 and following implementation, retesting in accordance with this condition shall be undertaken until the targets in condition 26 have been met.

10. Prior to the first occupation of the development, a detailed soft landscaping plan maximising the use of standard and extra heavy standard tree species of native origin shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved scheme and shall be implemented in the first planting season following first occupation of the development. Any plants or trees required as part of the implementation of the condition that die or are removed, damaged or diseased within a period of five years from the substantial completion of the development shall be replaced with to the reasonable satisfaction of the Local Planning Authority in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent for a variation.
11. The development shall not be occupied until bird nesting boxes have been installed on the building or in any trees on the site in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. The details shall accord with the advice set out in 'Biodiversity for Low and Zeros Carbon Buildings: A Technical Guide of New Build (Published by the RIBA, March 2010) or similar advice from the RSPB and the Bat Conservation Trust.
12. The development shall not be occupied until a Maintenance Plan detailing the maintenance arrangements including who is responsible for the different elements of the surface water drainage system and the maintenance activities/frequencies has been submitted to and approved in writing by the Local Planning Authority. This should include all features, including the catchpits, silt traps and property systems. Should any part be maintainable by the maintenance company, details of long-term funding arrangements should be provided. The applicant or any successor in title shall maintain yearly logs of maintenance which should be carried out in accordance with any approved maintenance plan. These shall be available for inspection upon request by the Local Planning Authority.
13. Prior to the occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions measured from the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.
14. The car parking area indicated on drawing 5490_PA_10 Rev B and 5490_PA_11 Rev B shall be constructed and marked out prior to the occupation of each block to which it relates, and thereafter retained permanently for the accommodation of vehicles of occupiers and visitors to the premises and not used for any other purpose.
15. The cycle and powered two-wheeler parking indicated on drawing 5490_PA_10 Rev B shall be constructed and available for use prior to the occupation of each block to which it related, and thereafter retained permanently for the accommodation of occupiers and visitors to the premises and not used for any other purpose.
16. The development shall not be occupied until a car parking management plan have been submitted to and approved in writing by the Local Plan Authority. The scheme shall be implemented in accordance with the approved details.

17. Prior to occupation of each block, the developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, which shall be submitted to and approved in writing by the Local Planning Authority. The Travel Information Pack shall include six one day travel vouchers for use with the relevant local public transport operator.
18. The Blue Badge parking bays indicated on drawing 5490_PA_10 Rev B and 5490_PA_11 Rev B shall prior to the occupation of the blocks be clearly marked with a British Standard disabled symbol and permanently retained for the use of disabled persons and their vehicles and for no other purpose
19. The development hereby permitted shall be undertaken in accordance with the phase II Contaminated Land Assessment prepared by JP Chick and Partners LTD (issue 1.0 dated 13/09/2017).
20. Gas protection measures outlined in the Phase II Contaminated Land Assessment prepared by JP Chick and Partners LTD (issue 1.0 dated 13/09/2017) shall be installed in all ground floor rooms and shall include the recommendations outlining the Environmental Health Memo dated 12 June 2018.
21. Following the completion of measures identified in the remediation scheme, two copies of a full closure report shall be submitted to and approved in writing by the Local Planning Authority. The report shall provide verification that the works regarding contamination have been carried out in accordance with the approved method statement/s. Post remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met. The closure report shall include a completed certificate, signed by the developer, confirmed that the required works regarding contamination have been carried out in accordance with the approved written method statement. A sample of the certificate to be completed is available in Appendix 2 of the Land Affected by Contamination.
22. All of the car parking spaces shall be installed with the capability to provide for electric vehicle charging prior to the occupation of the development and shall be permanently retained thereafter.
23. The development shall achieve as a minimum a 20% reduction in carbon dioxide emissions over Part L of the Building Regulations (2013). A certificated Post Construction Review, or other verification process agreed with the Local Planning Authority, shall be provided to demonstrate that the agreed standards have been met.
24. All of the dwellings shall be fitted with superfast broadband capability.
25. No satellite dishes may be installed on the exterior of any of the approved apartment block, with the exception of a roof mounted dish providing a communal system available to each resident of the apartment block.

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