

Date



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# ADDENDUM

CHIEF EXECUTIVE  
Doug Wilkinson

Dear Councillor

## **SOUTH EASTERN AREA PLANNING COMMITTEE - WEDNESDAY 14 OCTOBER 2026**

Please find enclosed an Addendum for the above meeting, detailing any further information received in relation to the following items of business since the agenda was printed.

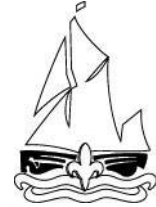
7. **25/00851/OUTM - Fairfield, Burnham Road, Latchingdon, Chelmsford, Essex, CM3 6HA**(Pages 3 - 8)

Yours faithfully

Chief Executive

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**CIRCULATED  
BEFORE THE  
MEETING**



**REPORT of  
DIRECTOR OF PLACE, PLANNING AND GROWTH**

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**to  
SOUTH EAST AREA PLANNING COMMITTEE  
14 OCTOBER 2026**

**ADDENDUM**

**AGENDA ITEM NO. 7**

|                                                       |                                                                                                                                                                                                                                                                                                |
|-------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Application Number</b>                             | <b>25/00851/OUTM</b>                                                                                                                                                                                                                                                                           |
| <b>Location</b>                                       | Fairfield, Burnham Road, Latchingdon, Chelmsford, Essex CM3 6HA                                                                                                                                                                                                                                |
| <b>Proposal</b>                                       | Outline application with all matters reserved except for access comprising demolition of existing structures and residential development of up to 47 homes including affordable housing, landscaping; open space, sustainable urban drainage systems; together with associated infrastructure. |
| <b>Applicant</b>                                      | Ptarmigan Latchingdon Limited                                                                                                                                                                                                                                                                  |
| <b>Agent</b>                                          | Mr Richard Ketelle – Sphere25                                                                                                                                                                                                                                                                  |
| <b>Target Decision Date</b>                           | 17 October 2026 (EoT)                                                                                                                                                                                                                                                                          |
| <b>Case Officer</b>                                   | Matt Bailey                                                                                                                                                                                                                                                                                    |
| <b>Parish</b>                                         | <b>Latchingdon</b>                                                                                                                                                                                                                                                                             |
| <b>Reason for Referral to the Committee / Council</b> | Major application                                                                                                                                                                                                                                                                              |

## **1 ADDITIONAL REPRESENTATIONS**

Subsequent to the publication of the committee report, further representations have been received raising concerns about the proposed foul drainage arrangements for the development. In particular, concerns have been raised regarding the existing lack of capacity at Latchingdon Water Recycling Centre (WRC), Anglian Water's objection to the development, the Environment Agency's pre-application advice regarding alternative drainage arrangements and whether the proposed planning condition would adequately address these matters.

The correspondence also refers to the recent High Court judgment in *Lund v Secretary of State for Housing, Communities and Local Government* and another [2026] EWHC 2474 (Admin), which concerns the use of planning conditions where necessary infrastructure depends on works being undertaken by a third party.

Officers (in consultation with the Council's legal team) have considered these representations and the implications of the judgment for the current application. The following provides a response to the principal matters raised and explains why the recommendation to approve remains unchanged, subject to an expanded wording of the proposed foul drainage condition.

### Legal Framework

Planning permission can be granted subject to conditions requiring certain matters to be addressed before development starts or before the development is occupied. Such conditions must meet the relevant tests set out in Policy DM6 of the National Planning Policy Framework (NPPF). These include requirements that conditions are necessary, reasonable, precise and enforceable.

A condition which prevents development or occupation until particular works have been carried out is commonly referred to as a *Grampian condition*. These conditions can be appropriate where development depends on infrastructure improvements, including works outside the application site or those requiring the involvement of another organisation.

However, national planning guidance makes clear that such a condition should not be imposed where there is no prospect at all of the necessary works being completed within the relevant period allowed by the planning permission. In this case, the application is for outline planning permission, with up to three years given to submit the reserved matters and a further two years from approval of the final reserved matter to commence development. This means that development could potentially commence up to five years after permission is granted.

Policy S5(1)(j)(i) of the NPPF also requires consideration of whether the scale of development can be accommodated by existing or proposed infrastructure. This does not mean that all necessary infrastructure must already be available when planning permission is granted. Taking the "no prospect at all" position as a baseline, the Council is not required to establish that the works will definitely, or even probably, take place - rather whether there is any realistic prospect of their delivery.

The other policies referred to in the correspondence, including DM3, DM7 and W4, have also been considered. These concern the determination of applications, the relationship with other regulatory regimes and the importance of water infrastructure. None prevents the use of a planning condition where that condition is otherwise appropriate and the necessary infrastructure has a realistic prospect of being provided.

### Current Recommendation

The committee report recommends that planning permission be granted, subject to completion of a Section 106 agreement and the recommended planning conditions,

including a Grampian condition requiring the submission of a foul water drainage strategy.

The report acknowledges that Anglian Water has identified insufficient capacity within the existing foul drainage network and at Latchingdon WRC. Anglian Water has also confirmed that an upgrade to the treatment works is not currently funded within the AMP8 investment period. Although Anglian Water has objected to the development on this basis, its consultation response of 28 November 2025 also suggests that, should permission be granted, a strategic foul drainage condition could be imposed. The recommended condition was intended to ensure that a suitable drainage strategy is agreed before development commences and that homes cannot be occupied until the necessary drainage infrastructure is in place.

The Environment Agency had separately advised at pre-application stage that a private package treatment plant would be unlikely to represent an acceptable alternative in the circumstances identified. In particular, the absence of capacity within the public sewerage system would not, in itself, justify departing from the normal drainage hierarchy. Whilst this option was considered “unlikely” to be supported, this advice was provided at pre-application stage, and was not tested as part of a specific proposal. The EA have not commented on the application itself since it falls outside of their parameters for consultation response.

### The Lund Judgment

The Lund judgment concerned a development where necessary highway improvements depended on a separate highway authority agreeing to use its statutory powers to deliver the works. There were objections to the proposed highway scheme, no formal decision by the highway authority to proceed, and uncertainty over whether the works would be ultimately undertaken. The Court considered the use of a Grampian planning condition intended to prevent development until those improvements had been completed.

The judgment confirms that, when considering such conditions, the decision-maker must have regard to the practical prospect of the necessary works being delivered. It is not sufficient simply to identify that another organisation has the legal powers to undertake the works or that a developer is willing to contribute towards their cost. The Court upheld the Inspector's approach, which had taken account of the uncertainty over whether the necessary highway improvements would actually be provided.

The judgment is relevant to the Fairfield application insofar as it relates to the use of a Grampian condition – however the judgment does not establish that planning permission must be refused whenever necessary infrastructure is not yet available or funded. Nor does it prevent the use of a Grampian condition where infrastructure improvements are required.

The relevant test is whether there is no prospect at all of the necessary works being completed within the period allowed by the permission. This is a low threshold and does not require the Council to establish that the works are likely or certain to take place. but must still consider the practical circumstances of the case, rather than relying solely on the theoretical possibility of the works being delivered.

#### Relevance to Current Application

Officers have considered whether the circumstances identified in *Lund* affect the recommendation to approve the Fairfield application. Whilst a similarity exists given that necessary infrastructure improvements may depend on the involvement of a third party, there are a number of key differences which must be considered.

In the present case, Anglian Water has identified a capacity constraint but has also suggested the use of a strategic foul drainage condition should permission be granted. This indicates that Anglian Water recognises a potential means of managing the issue through the planning process although it does not amount to confirmation that the necessary infrastructure will be delivered. The absence of an upgrade within AMP8 is an important consideration, but it does not necessarily mean that improvements could not be undertaken through another funding or delivery arrangement, or at a later stage i.e. post 2030.

In this case, the application is for outline planning permission, with up to three years to submit the reserved matters and a further two years from approval of the final reserved matter to commence development. This means that development could potentially commence up to five years after permission is granted, with occupation taking place later still. This provides additional time for the necessary foul drainage arrangements to be agreed and implemented.

Also, unlike in *Lund*, other options exist for possible foul drainage solutions at the site other than via the Anglian Water route. Despite the EA's pre-application response indicating that a package treatment solution would be "unlikely" to be supported, this is not explicit. Other alternative solutions may also be achievable as part of a foul drainage strategy (albeit not yet specified).

A condition preventing occupation until the drainage arrangements have been completed would allow time the necessary infrastructure to be provided during that period. Importantly, the condition does not require Anglian Water to undertake works or assume that improvements will be funded. Instead, it places responsibility on the developer to demonstrate that acceptable arrangements can be provided before the development is occupied.

Officers therefore consider that the use of the condition remains an appropriate approach, provided there is a realistic prospect of the necessary drainage

arrangements being delivered within the relevant period, which in any event as noted above extends beyond the current AMP8 period

The application must also be considered in the context of the wider planning balance. The site is outside the defined settlement boundary and conflicts with Policies S1, S2 and S8 of the Local Development Plan. However, the Council cannot currently demonstrate a five-year supply of housing land, and the proposed development would provide up to 47 dwellings, including at least 19 affordable homes if the maximum number is delivered.

Having considered the representations, officers do not consider that *Lund* requires a different recommendation simply because existing drainage capacity is insufficient or because an upgrade is not currently included within AMP8. The relevant test is whether there is no prospect at all of the necessary infrastructure being provided within the period allowed by the permission. The absence of a currently funded upgrade does not, in itself, demonstrate that this threshold has been reached, particularly where other means of delivering the required capacity may be available.

#### Amended Condition

Notwithstanding the above position, following discussions with both Anglian Water and the Environment Agency, an amended foul drainage condition wording has been proposed which sets out additional detail in relation to the requirements of the strategy and additional submissions relating to public or private connections.

## **12. Foul Water Drainage Strategy**

- (i) No development shall commence until a strategic foul water drainage strategy has been submitted to and approved in writing by the Local Planning Authority, in consultation with Anglian Water and the Environment Agency. The strategy shall provide a justification of the selected scheme having regard to the foul drainage hierarchy; identify the drainage system, agreed sustainable point of connection, receiving water recycling centre and, where relevant, receiving watercourse; assess available network and treatment capacity; and specify any required network or treatment works, phasing against available capacity, programme and delivery responsibility. Any proposed non-mains solution shall be supported by a completed Environment Agency Foul Drainage Assessment and shall not be implemented unless all necessary environmental permits and other consents have been obtained.
- (ii) Where the foul drainage strategy uses the public sewerage system, written confirmation from Anglian Water or an appointed New Appointment and Variation (NAV) operator shall be submitted to the Local Planning Authority prior to occupation confirming that the relevant sewer network and treatment works have been adopted and that capacity and connection are available for the

development. Where a non-mains solution is approved, written evidence that the system has been installed and commissioned and that all required permits and consents are in force shall be submitted to the Local Planning Authority prior to occupation.

- (iii) No dwelling shall be occupied until the approved foul water drainage scheme has been implemented in accordance with the approved strategy.

REASON: To ensure that foul drainage is provided through an acceptable and deliverable solution and to prevent pollution, in accordance with Policies D2 and D5 of the Maldon District Local Development Plan and Policies W4, P3 and F7 of the NPPF.

## **2 OTHER MATTERS**

### Highways Improvements Condition

Clarification has been sought regarding the type of crossing proposed at Burnham Road, to be secured under condition 8. The intention is for the crossing to be a designated lit crossing (specific type to be confirmed), as opposed to simply dropped kerbs. The wording of condition 8 has therefore been adjusted as follows:

#### **Condition 8 – Highways Improvements**

No dwelling shall be occupied until a continuous 2 metre wide footway along the southern side of Burnham Road, extending west from the site access to a point approximately 20 metres west of the new access to the development north of The Groves, together with a pedestrian crossing of Burnham Road, have been provided in accordance with details submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The details of the pedestrian crossing shall include its location, type, associated lighting, visibility, dropped kerbs and tactile paving.

The details shall include dropped kerbs and tactile paving at the western connection and for access to the bus stops, pedestrian visibility, drainage and any necessary lighting consistent with condition 23. They shall identify all connecting sections and any bus-stop works needed to provide a complete, safe and usable route to the existing village footway network and operational bus stops. All those works shall be completed before first occupation, made available for public use and retained thereafter.

REASON: To secure safe and inclusive pedestrian access in accordance with Policies T1 and T2 of the Maldon District Local Development Plan and Policies TR3 and TR4 of the NPPF.