

Appendices for North Western Area Planning Committee

- 1 The Environment Agency and Anglian Water Services - Joint Consultation Response dated 6 February 2018
- 2 Anglian Water Services received by the Council on 14 March 2018
- 3 The Environment Agency dated 19 April 2018
- 4 Natural England dated 19 April 2018

Maldon District Council
Planning Department
Princes Road
Maldon
Essex
CM9 5DL

Our ref: AE/2017/122088/03-L01
Your ref: 17/05154
Date: 06 February 2018

Dear Sir/Madam

COMPLIANCE WITH CONDITIONS NOTIFICATION OF APPROVED APPLICATION OUT/MAL/14/01016 (OUTLINE PLANNING APPLICATION FOR UP TO 75 MARKET AND AFFORDABLE DWELLINGS, A VILLAGE CENTRE OF UP TO 1,000 SQ M OF FLEXIBLE COMMERCIAL AND COMMUNITY FLOORSACE, A 1.8HA VILLAGE GREEN AND PUBLIC OPEN SPACE). CONDITION 5 - MATERIALS. CONDITION 6 - TREATMENT BOUNDARIES. CONDITION 8 - TREES. CONDITION 9 - HEDGES. CONDITION 10 - ECOLOGY REPORT. CONDITION 12 - SURFACE WATER DRAINAGE SYSTEM. CONDITION 13 - FOUL AND SURFACE WATER DRAINAGE SYSTEM. CONDITION 14 - VISIBILITY SPLAYS. CONDITION 17 - SURFACE WATER. CONDITION 18 - FINISHED GROUND AND FLOOR LEVELS. CONDITIONS 19 - ONSITE CONSTRUCTION MANAGEMENT PLAN. CONDITION 20 - LIGHTING. CONDITION 21 - REPTILE MITIGATION STRATEGY. CONDITION 22 - MITIGATION AND MANAGEMENT STRATEGY. CONDITION 23 - ARCHAEOLOGICAL ASSESSMENT. CONDITION 24 - PROGRAMME OF ARCHAEOLOGICAL WORK. CONDITION 31 - WASTEWATER STRATEGY. CONDITION 33 - FOUL WATER STRATEGY. LAND WEST OF FAMBRIDGE ROAD, NORTH FAMBRIDGE, ESSEX.

Following our earlier letter dated 12 January 2018 – this set out a number of issues we wished to have clarification on from Anglian Water Services (AWS) - we subsequently met with representatives of AWS and Barratt David Wilson Homes (BDWH) in order to discuss the issues raised by us in that letter. The points detailed below were the subject of discussions during our meeting and would advise the Council that we agreed in principle with the conclusions reached on each point.

1. Confirmation that the mitigation solution approved for the development connection is intended to address the impact on the sewerage network. It will not affect the predicted exceedence of the Dry Weather Flow (DWF) permit at Latchingdon Water Recycling Centre (WRC).

2. The mitigation solution is designed to ensure that flows from the development will not discharge to the network during periods of high surcharge and will not therefore, create additional detriment.
3. Due to the regulatory constraints to funding sewer requisition schemes (Section 98 of the Water Industry Act 1991), mitigation solutions that are designed to enable new development connections are not intended to resolve pre-existing network performance issues. However, the provision of active control and upstream attenuation for this development will offer the potential for closer integration with the existing sewage pumping stations and this in turn will provide more operational flexibility in managing the prevailing network performance risks. Furthermore, the installation of the network monitor that is integral to mitigation solution, will provide additional permanent data collection on the network performance. This provides greater verification of modelled simulations and diagnostic evidence in support of further capital investment.
4. AWS acknowledge that assumptions on the impact on water quality relating to the final effluent discharge from Latchingdon WRC cannot be relied upon with a prevailing DWF permit exceedence. Ultimately, the sanitary consent standard set for the FE discharge will need to be reviewed prior to determining a revised discharge consent that reflects the extent of new development expected in the catchment. However, the degree of the water quality impact of this development cannot be determined at this stage nor can we be certain on the amount of catchment growth on which to assess future water quality impact and so define what physical modifications to the WRC are needed. Determining this will require a period of analysis and investment planning far exceeding the practicable programming for the development.
5. The purpose of the AWS original condition relating to sewage treatment capacity was to ensure that the developer provided sufficient information on the service requirement date to enable AWS to commence investment planning. It is considered that this requirement has been satisfied and the projected exceedence of the DWF permit at Latchingdon has been identified in the investment planning for AMP7 (2020-25). It should be noted that the AWS investment plan will be subject to approval by Ofwat and the appropriate governance to ensure the whole life value (TOTEX) justifies the investment, so we cannot be more specific on the WRC investment at this stage.
6. The necessary lead-in time for investment to enhance WRC capacity and also the general uncertainty around future catchment growth, inevitably creates a time lag between the occupation of early elements of the planned new development and the provision of the required WRC enhancement. The water quality impacts that may occur during this period will be managed by AWS through the normal engagement with Environment Agency compliance teams.

We were given to understand during the meeting that AWS have held discussions with BDWH concerning detailed design for the foul water disposal requirements and we are happy this aspect is being progressed by the two parties. We are now able to recommend the part discharge of condition 13. However, this should not be taken as implying that the volumetric or quality parts of the discharge consent for Latchingdon WRC can be exceeded. We would expect AWS to continue to carry out their obligations – they are of course aware of these - as regards effluent and flow compliance such that a breach does not occur.

Yours faithfully



Andrew Hunter
For Sustainable Places Team

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cc Strutt & Parker Ltd

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North Fambridge

Manor Farm and Land West of the Avenue

Anglian Water Services Ltd.

Preface

The purpose of the conditions that we request is to ensure that additional flows do not have a detrimental impact on existing network operational performance.

The analysis has been carried out to provide a drainage strategy which has enabled us to recommend discharge of the following conditions.

Anglian Water Services has an obligation, under Section 98 of the Water Industry Act 1991, to provide a new sewer from the existing sewer network, upon receipt of a sewer requisition. Where it is identified that flows from the new sewer will cause detriment to the existing sewerage network AWS can recover a proportion of the reasonable costs incurred in providing mitigation by way of further sewerage works in consequence of the sewer requisition. Consequential sewers provided in this way are limited in the following ways:

- 1- They may only remove any additional operational risk to the sewerage network caused by the provision of the new sewer, and not more: in other words they can not provide betterment of said network.
- 2- They may not extend to sewerage works intended to rectify an existing deficit in the system. This is because they are provided purely in consequence of the requisitioned sewer.
- 3- It is only sewerage works that may be provided and not treatment facilities. This is because the Act only allows for the provision of a 'sewer' then the developer can not be held liable for costs associated with providing additional capacity at Water Recycling Centre (WRC).

The limit of this statutory obligation has been tested.

Alternatively, if no new sewer is required (and therefore no new requisition made), a developer may simply seek a connection to the existing sewerage network, thus avoiding the sewerage undertaker's ability to provide necessary consequential works at the developer's cost. In these cases, sewerage undertakers generally seek planning conditions to achieve the same effect as the requisition process. Accordingly, the planning conditions we request in respect of an acceptable sewer network are operated to no greater effect than the requisition process; in other words it is operated subject to the same limitations.

For Manor Farm, North Fambridge (30 C3 dwellings)

Analysis has confirmed that the connection of flows from this development has no significant impact on the performance of the foul water sewerage system, therefore the foul water drainage conditions in respect of this site can be discharged.

Anglian Water recommends foul water conditions are discharged in full.

For Land West of The Avenue, North Fambridge (75 C3 dwellings).

Condition 13

“No development approved by this permission shall be commenced until a scheme for the improvement of the existing foul and surface water drainage system has been submitted to and approved in writing by the local planning authority. The scheme needs to set out the phasing of the development in terms of dwellings built and occupied alongside the foul and surface water system improvements needed. The scheme shall be implemented as approved. No occupation of dwellings approved by this permission shall occur until each phase of the scheme for improvement of the existing foul and surface water drainage system has been completed and confirmation obtained of available permitted capacity in the network and at the treatment works.”

As discussed above, it is not Anglian Water’s practice to request the developer to fund improvements to the existing sewerage network beyond that required to address the development only. We have worked with the developer to ensure a drainage strategy has been produced which ensures that no detriment is caused to the existing operational performance by the flows from the proposed development.

BDW have provided Maldon District Council with a phasing strategy for the development. The phasing element of this condition has been met. The on-site and off-site drainage works will be undertaken in line and completed ahead of the first occupation.

Again, as discussed above, in relation to the Waste Water treatment, it is not Anglian Water’s practice to seek to hold the developer liable through the planning system for the funding of any infrastructure upgrades to water recycling centres (WRC). Investment in WRC is triggered by a number of risks, including growth and regulatory changes and process deterioration. The growth element of the future risk is known, therefore we are satisfied that this element of the condition can be discharged as invest prioritisation has commenced.

Anglian Water recommends discharge of condition 13

Condition 31 (relating to WRC capacity)

“No development shall commence until a detailed wastewater strategy has been submitted to and approved in writing by the local planning authority. The development shall be carried out in complete accordance with the approved details and retained as such thereafter.”

Again, it is not Anglian Water's practice to hold the developer liable through the planning system for the funding of any infrastructure upgrades to water recycling centres. Investment in WRC is triggered by a number of risks, including growth and regulatory changes and process deterioration. The growth element of the future risk is known, therefore we are satisfied that the condition can be discharged as Invest prioritisation has commenced

Anglian Water recommends discharge of condition 31

Condition 33

"No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details and retained as such thereafter."

The purpose of the foul water drainage strategy is to establish a method of connecting the development flows without creating additional detriment to the operation of the sewerage system. In response to a pre-planning enquiry AW undertook a desktop assessment that identified a network reinforcement solution in support of the outline planning application. Following their achieving outline planning approval Barratt David Wilson Homes (BDW) diligently approached AWS to carry out a detailed assessment of their proposed drainage strategy (including the new pumping station design) and of any potential detriment caused by their proposal. BDW entered into a S98 Underwriting Agreement with AWS that allowed this assessment to be completed to ensure that the required S98 works could be completed ahead of their first occupation.

This detailed analysis has provided an alternative, more reliable solution employing storage upstream of the connection point and discharge control on the development pumping station. This provides a more effective mitigation of the predicted- additional risk posed by the development. The agreed foul water strategy employs a control on the development pumping station to ensure that the development only discharges when there is sufficient capacity within the foul water network. The development onsite drainage has been designed to provide sufficient storage capacity to accommodate flows while the discharge is inhibited.

Under the terms of the S98 agreement the onsite elements of the work will be completed by BDW and the offsite works will be completed by AWS. BDW will install additional storage within the development drainage. The discharge control will be installed by AWS under the S98 sewer requisition scheme and delivery of this off-site work will be programmed to coincide with the onsite works to ensure that they are completed ahead of the first occupation.

The onsite infrastructure and pumping station has been submitted to Anglian Water for adoption, under a Section 104 agreement. Anglian Water will adopt this infrastructure and will therefore operate, control and maintain said infrastructure.

As the developer will provide the additional storage capacity to enable this strategy the foul water drainage conditions in respect of this site can be discharged.

Anglian Water recommends discharge of condition 33

Conclusion

The off-site control will be implemented in line with the developer's programme of on-site works and completed prior to occupation of any dwellings.

Anglian Water are therefore satisfied that the wastewater and foul drainage conditions associated with both manor Farm and land West of The Avenue can be discharged.



Jack Haynes
Natural England

Our ref: AE/2017/122088/06-L01
Your ref: 17/05154

Date: 19 April 2018

Dear Jack

LAND WEST OF FAMBRIDGE ROAD, NORTH FAMBRIDGE, ESSEX.

Thank you for your e mail of 10 April 2018. We have reviewed the Habitats Regulation Assessment from Maldon DC. The determination of the screening exercise is a matter for yourselves and the council, however, the following information may be useful.

Anglian Water Services state in their note dated 13 March 2018 that both Manor Farm and Land to the west of The Avenue will have no significant impact on the performance of the foul water sewer system.

- Foul water flow from the development at Manor Farm can be connected by gravity.
- Foul water flow from development on land to the west of The Avenue site will be controlled and only discharged when there is sufficient capacity in the network. Underground storage will be installed to hold back foul water at times of high flow.

This appears to us to be satisfactory.

AWS have also stated there will be no significant impact on the performance of the foul water sewer system. Our interpretation of this is that there should be no likely significant effect, LSE, to designated sites as the network will essentially be performing as it is now.

We are unable to say the development will make the existing situation better. AWS state that for sewers provided under S98 of the Water Industry Act 1991 they may only remove any additional operational risk to the sewerage network caused by the provision of the new sewer. Betterment of the network cannot be provided.

Franklin Road sewage pumping station (SPS) is part of the existing foul sewerage infrastructure in North Fambridge and is permitted to discharge in an emergency to avoid foul water flooding nearby properties. The permit contains a condition requiring the company to maintain an alarm to provide an alert for pumping station failure. The emergency overflow at Franklin Road SPS may need to operate at some point in the future however this this would occur with or without the development.

I have also attached our letter of 20 March 2018.

Yours sincerely

A handwritten signature in black ink that reads "Graham Steel". The signature is written in a cursive style with a large initial 'G' and 'S'.

Mr GRAHAM STEEL
Sustainable Places - Planning Advisor

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Direct e-mail graham.steel@environment-agency.gov.uk

Date: 19 April 2018
Our ref: 242443
Your ref: DET/MAL/17/05154 PP-06219074



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Maldon District Council

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BY EMAIL ONLY

Customer Services
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Dear Yee,

Planning consultation: Compliance with conditions notification of approved application OUT/MAL/14/01016 (Outline planning application for up to 75market and affordable dwellings, a village centre of up to 1,000sq m of flexible commercial and community floorspace, a 1.8ha village green and public open space). Condition 5 - Materials. Condition 6 - Treatment boundaries. Condition 8 - Trees. Condition 9 - Hedges. Condition 10 - Ecology Report. Condition 12 - Surface water drainage system. Condition 13 - Foul and surface water drainage system. Condition 14 - Visibility splays. Condition 17 - Surface water. Condition 18 - Finished ground and floor levels. Conditions 19 - On-site construction management plan. Condition 20 - Lighting. Condition 21 - Reptile mitigation strategy. Condition 22 - Mitigation and management strategy. Condition 23 - Archaeological assessment. Condition 24 - Programme of archaeological work. Condition 31 - Wastewater strategy. Condition 33 - Foul water strategy – HABITATS REGULATIONS ASSESSMENT (HRA) SCREENING

Location: Land West Of Fambridge Road, North Fambridge, Essex

Thank you for your consultation on the above dated 22 March 2018 which was received by Natural England the same day. Thank you also for allowing us additional time within which to provide our response.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF ADVICE

Based on the information provided in support of the application, Natural England's view is that the proposal is unlikely to have a significant effect on the Crouch and Roach Estuaries Special Protection Area (SPA) and Ramsar site or Essex Estuaries Special Area of Conservation (SAC). We also consider that the proposal is unlikely to adversely affect the underpinning Crouch and Roach Estuaries Site of Special Scientific Interest (SSSI).

We therefore have no objection to the discharging of the above conditions.

DETAILED ADVICE

Advice under the Conservation of Habitats & Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended)

Internationally and nationally designated sites – NO OBJECTION

We welcome that a Habitats Regulations Assessment (HRA) has now been carried out following our previous advice to your authority (our ref: 239701, dated 12th March 2018). In line with that advice, Stage 1 of the HRA process (screening for a likely significant effect (LSE)) has been undertaken based on the information provided in support of the application at this stage.

Taking into account the information provided by the applicant and the advice of the Environment Agency and Anglian Water, your HRA screening concludes that the discharging of Conditions 13, 22 and 33 will not result in a LSE to the Crouch and Roach Estuaries SPA and Ramsar site or Essex Estuaries SAC for the following reasons:

i) Condition 22 – Recreational disturbance

On-site measures have been considered and proposed which include a number of open spaces designed and managed in the long-term to maximise opportunities for day-to-day recreational activity on site, including attractive circular walks etc.

Taking this into account, Natural England is satisfied with this aspect of the mitigation package and considers that it will help minimise the need for new residents to leave the development site on a routine basis to walk their dogs etc. in and around the nearby designated sites. We recommend that these provisions are fully secured through the S106 legal agreement as is proposed.

Off-site measures have been proposed in the form of a financial contribution (£44,025) towards visitor management measures at the Blue House Farm Essex Wildlife Trust reserve (part of the Crouch and Roach Estuaries), to be implemented prior to occupation of the development. This is proposed to include the production of leaflets, installation of information boards/signs, improvement to the existing playfield/playground, security fence to the public footpath and the monthly monitoring of birds for a period of five years.

Taking this into account, Natural England is largely satisfied with this aspect of the mitigation package and considers that it will help make the nearby designated sites more resilient to the predicted increase in recreational pressure. However, as has been highlighted by the Essex Wildlife Trust, the financial contribution should fund designated site mitigation only and not improvements to playfields/ playgrounds which appear unrelated. Once this issue has been resolved and agreed with the Essex Wildlife Trust, we recommend that these provisions are fully secured through the S106 legal agreement as is proposed.

ii) Conditions 13 and 33 – Water pollution

As previously advised, water pollution has also been identified as a potential impact pathway to the Crouch and Roach Estuaries and we welcome that this has also been assessed through the HRA screening process, which concludes 'no LSE' in this respect. Having reviewed the HRA and discussed this matter further with the Environment Agency as experts in this field (122088 v6, correspondence attached), it is our understanding that the agreed sewerage network solution for the development presents no additional risks to the designated sites above the current situation. Furthermore, the Environment Agency has advised that the implementation of the foul water strategy for the development will inevitably result in the issue of a new discharge permit for Latchingdon Water Recycling Centre (WRC); the possible effects on the designated sites

will be assessed during the determination of the permit which will reflect the determination of this application and include appropriate conditions to ensure there is no unacceptable impact to the designated sites.

On this basis, we therefore agree that a LSE to the designated sites from water pollution can be ruled out at this stage.

This concludes Natural England's advice at this stage which we hope you will find helpful.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Jack Haynes using the details given below . For any new consultations, or to provide further information on this consultation, please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

Jack Haynes

Land Use Operations Norfolk & Suffolk Team

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