

<p><b>Reference:</b> 21/01812/FUL</p>	<p><b>Site:</b> Land adjacent and to the rear of The George and Dragon East Tilbury Road Linford Essex</p>
<p><b>Ward:</b> East Tilbury</p>	<p><b>Proposal:</b> Detailed planning application for the construction of 230 affordable dwellings with associated parking, access, landscaping, open space and infrastructure.</p>

<b>Plan Number(s)</b>		
Reference	Name	Received
1352-EWK-001 P02	Proposed Levels Strategy Sheet 1 of 2	10th November 2021
1352-EWK-002 P02	Proposed Levels Strategy Sheet 2 of 2	10th November 2021
1352-EWK-003 P02	Proposed Earthworks Contours Sheet 1 of 2	10th November 2021
1352-EWK-004 P02	Proposed Earthworks Contours Sheet 2 of 2	10th November 2021
1352-EWK-005 P02	Proposed Earthworks Cut and Fill Analysis Sheet 1 of 2	10th November 2021
1352-EWK-006 P02	Proposed Earthworks Cut and Fill Analysis Sheet 2 of 2	10th November 2021
7079-PL-01H	Proposed Site Layout	27th January 2022
7079-PL-02H	Constraints Plan	27th January 2022
7079-PL-03A	Existing Site Layout (Site Survey)	21st October 2021
7079-PL-04C	Boundaries Plan	27th January 2022
7079-PL-05C	Character Areas	27th January 2022
7079-PL-06C	Parking Provision	27th January 2022
7079-PL-07C	Storey Heights Plan	27th January 2022
7079-PL-08C	Dwelling Size Plan	27th January 2022
7079-PL-09C	Materials Plan	27th January 2022
7079-PL-10C	Roof Pitches	27th January 2022
7079-PL-11C	Waste Collection Strategy	27th January 2022
7079-PL-12C	EV Charging Plan	27th January 2022
7079-PL-13A	Location Plan	21st October 2021
7079-PL-20C	House Type – Holt. Plans and Elevations 01	27th January 2022
7079-PL-21C	House Type – Holt. Plans and Elevations 02	21st October 2021

7079-PL-22B	House Type – Holt. Plans and Elevations 03	21st October 2021
7079-PL-23C	House Type – Holt. Plans and Elevations 04	27th January 2022
7079-PL-24C	House Type – Holt. Plans and Elevations 05	27th January 2022
7079-PL-25C	House Type – Cardingham. Plans and Elevations 01	27th January 2022
7079-PL-26C	House Type – Cardingham. Plans and Elevations 01	27th January 2022
7079-PL-27C	House Type – Cardingham. Plans and Elevations 03	27th January 2022
7079-PL-28C	House Type – Cardingham. Plans and Elevations 04	27th January 2022
7079-PL-29C	House Type – Cardingham. Plans and Elevations 05	27th January 2022
7079-PL-30B	House Type Dallington 11 deg pitch. Plans and Elevations 01	27th January 2022
7079-PL-31A	House Type Dallington 11 deg pitch. Plans and Elevations 02	21st October 2021
7079-PL-32B	House Type Dallington Gable. Plans and Elevations 01	21st October 2021
7079-PL-34C	House Type Dallington 30 deg pitch. Plans and Elevations 01	27th January 2022
7079-PL-35C	House Type Dallington 30deg pitch. Plans and Elevations 02	27th January 2022
7079-PL-36B	House Type Dallington 30deg pitch. Plans and Elevations 02	21st October 2021
7079-PL-37C	House Type Dallington 30-35deg pitch. Plans and Elevations 04	27th January 2022
7079-PL-38B	House Type Dallington 30 deg pitch – Plans and Elevations 06	27th January 2022
7079-PL-39B	House Type Rockingham – Plans and Elevations 01	21st October 2021
7079-PL-40C	House Type Rockingham – Plans and Elevations 02	27th January 2022
7079-PL-50A	Street Elevations Sheet 1	27th January 2022
7079-PL-51A	Street Elevations Sheet 2	27th January 2021
7079-PL-52A	Street Elevations Sheet 3	27th January 2021
7079-PL-60F	Apartment Block A. Proposed Floor Plans – Sections	28th October 2021

7079-PL-61E	Apartment Block A. Proposed Elevations	28th October 2021
7079-PL-62F	Apartment Block B. Proposed Floor Plans – Sections	28th October 2021
7079-PL-63E	Apartment Block B. Proposed Elevations	28th October 2021
7079-PL-100	Cycle Store	21st October 2021
7079-PL-101	Bus Stop/Shelter	21st October 2021
7079-PL-42	House Type Holt 30-40 Deg Hipped Roof – Plans and Elevations 06	27th January 2022
7079-PL-43	House Type Holt 30-35 Deg Hipped Roof – Plans and Elevations 07	27th January 2022
7079-PL-44	House Type Dallington 30-35 Deg pitch – Plans and Elevations 06	27th January 2022
7079-PL-45	House Type Dallington 30-35 Deg pitch – Plans and Elevations 07	27th January 2022
1352-D-001 Revision P05	Drainage Strategy	21 <sup>st</sup> October 2021
1352-D-003 Revision P02	Drainage Strategy	28 <sup>th</sup> October 2021

The application is also accompanied by:

- Affordable Housing Statement (Dated January 2022)
- Affordable Housing Mix Email (Dated 25 May 2022)
- Agricultural Considerations Report (Dated March 2022)
- Agricultural Land Response Letter (Dated 10 August 2022)
- Air Quality Assessment (Dated October 2021)
- Application Form
- Arboricultural Implications Report (Dated October 2021)
- Archaeological Desk-Based Assessment (Dated 30 September 2021)
- Design and Access Statement (Dated 11 October 2021)
- Design Addendum (Received January 2022)
- Ecological Assessment (Dated October 2021)
- Energy Statement (Dated October 2021)
- Flood Risk Assessment (Dated January 2022)
- Foundation Depths Sheets 1 and 2
- Ground Investigation Report (Dated July 2021)
- Health Impact Assessment (Dated October 2021)
- Landscape and Visual Impact Assessment (Dated October 2021)
- Noise Assessment (Dated October 2021)
- Planning Statement (Dated October 2021)
- Preliminary Risk Assessment (Dated October 2021)
- Preliminary Tree Survey Schedule (Dated March 2021)

- Residential Framework Travel Plan (Dated October 2021)
- Sequential and Exceptions Test Report (January 2022)
- Shadow Habitat Regulations Assessment (Dated October 2021)
- Statement of Community Involvement (Dated October 2021)
- Sustainability Statement (Dated October 2021)
- Transport Assessment (Dated October 2021)
- Transport Assessment Addendum (Dated January 2022)
- Transport Note (Dated January 2022)
- Tree Constraints Plan (Dated March 2021)
- Utilities Statement (Dated September 2021)

**Applicant:**

Estates and Agency Strategic Land LLP

**Validated:**

22 October 2021

**Date of expiry:**

9 January 2023 (Agreed extension of time)

**Recommendation:** Refuse planning permission**1.0 BACKGROUND**

1.1 At the meeting of the Planning Committee held on 16 November 2022 Members considered a report assessing the above proposal. The report recommended that planning permission be refused for two reasons. These are set out below:

1. *The application site is located within the Green Belt, as identified on the Policies Map accompanying the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (2015). National and local planning policies for the Green Belt set out within the NPPF and Thurrock Local Development Framework set out a presumption against inappropriate development in the Green Belt. The proposals are considered to constitute inappropriate development with reference to policy and would, by definition, be harmful to the Green Belt. It is also considered that the proposals would harm the openness of the Green Belt and would be contrary to purposes a), c) and e) of the Green Belt, as set out by paragraph 138 of the NPPF. It is considered that the identified harm to the Green Belt is not clearly outweighed by other considerations so as to amount to the very special circumstances required to justify inappropriate development. The proposals are therefore contrary to Part 13 of the NPPF and Policies CSSP4 and PMD6 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (2015).*
2. *The proposals, by reason of the use of standard house types, the layout, the mix of proposed character areas the differing scale and heights of the proposed built form would fail to deliver the high-quality place required by national and*

*local planning policies and would not reflect the character and appearance of the area, taking account the site's countryside location. The proposal is not well-design and fails to reflect government guidance on design also failing to establish or maintain a strong sense of place. The proposals are therefore contrary to Part 12 of the NPPF and Policies CSTP22 and PMD2 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development 2015.*

- 1.2 A copy of the reported presented to the November Committee meeting is attached as an appendix.
- 1.3 At the November Committee Members were minded to grant planning permission for the proposed development based on the following reasons:
- a) the scheme would provide 100% affordable housing (AH);
  - b) the Council is unable to demonstrate a 5-year housing land supply (+ 20% buffer) and the scheme would contribute to the delivery of new housing;
  - c) the scheme would provide for local transport upgrades;
  - d) the scheme would deliver low carbon and 'zero bill' development; and
  - e) the scheme would have an accelerated implementation period of 18 months.
- 1.4 In accordance with Part 3(b) – Planning Committee Procedures and in particular Paragraphs 7.2 and 7.3 of the Constitution, the Committee agreed that the item should be deferred to enable a further report outlining the implications of making a decision contrary to the Planning Officer's recommendation. This report also assesses the reasons formulated by the Committee and sets out the current position regarding heads of terms for any potential s106 agreement and planning conditions.

## **2.0 FACTUAL UPDATES**

- 2.1 At the meeting on 16 November 2022 it was verbally reported by Officers that four late letters of representation had been received following the publication of the agenda. These letters, two of which are from local addresses and the other two with no address provided, raise objections to the application on the following grounds:
- highways safety;
  - traffic congestion;
  - increased pressure on local infrastructure; and
  - potential for surface water flooding.

- 2.2 At the Committee meeting it was also verbally reported that the applicant had submitted a 'Stage 1 Road Safety Audit Addendum' for the proposed highway works and bus lay-by associated with the development.
- 2.3 Reference was made to the term 'Zero Bill Home' in November and the applicant has provided a definition of this term as follows:
- these homes will not be connected to the gas supply network;
  - the homes will be provided with battery storage, air source heat pumps and photo voltaic panels; and
  - the housebuilder (Ilke Homes) has a partnership agreement with Octopus Energy meaning that occupiers will not receive an energy bill for at least 5 years.
- 2.4 It was previously reported that the financial contribution required to mitigate the impacts of the development of local nursery, primary and secondary school place provision was £1,828,739.34. This figure was reported incorrectly. Instead, the correct figure should have been £3,078,524.18, which comprises of £1,952,838.18 for primary education and £1,125,686.00 for secondary education. This figure was incorrectly calculated due to an administrative error that based the scheme on 35% affordable housing provision (the base policy position) as opposed to being 100% affordable housing.
- 2.5 The applicant has also formally submitted a draft Unilateral Undertaking (UU) (or deed) under s106 of the Town and Country Planning Act 1990 which would bind those parties with a legal interest in the site to perform enforceable obligations, but does not require the Council to sign the deed. The Heads of Terms of this deed are detailed from part 5 of this report.

### **3.0 PLANNING ASSESSMENT & LEGAL IMPLICATIONS**

- 3.1 As required by the Constitution, an outline of the implications of making a decision contrary to the Officer recommendation is provided below. The recommended reasons for refusal from the 16 November 2022 Planning Committee report is set out in italics below, with the implications considered subsequently.

#### **3.2 REASON 1: PRINCIPLE OF DEVELOPMENT AND HARM TO THE GREEN BELT (GB)**

- 1. The application site is located within the Green Belt, as identified on the Policies Map accompanying the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (2015). National and local planning policies for the Green Belt set out within*

*the NPPF and Thurrock Local Development Framework set out a presumption against inappropriate development in the Green Belt. The proposals are considered to constitute inappropriate development with reference to policy and would, by definition, be harmful to the Green Belt. It is also considered that the proposals would harm the openness of the Green Belt and would be contrary to purposes a), c) and e) of the Green Belt, as set out by paragraph 138 of the NPPF. It is considered that the identified harm to the Green Belt is not clearly outweighed by other considerations so as to amount to the very special circumstances required to justify inappropriate development. The proposals are therefore contrary to Part 13 of the NPPF and Policies CSSP4 and PMD6 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (2015).*

## REASON 2: DESIGN

2. *The proposals, by reason of the use of standard house types, the layout, the mix of proposed character areas the differing scale and heights of the proposed built form would fail to deliver the high quality place required by national and local planning policies and would not reflect the character and appearance of the area, taking account the site's countryside location. The proposal is not well-design and fails to reflect government guidance on design also failing to establish or maintain a strong sense of place. The proposals are therefore contrary to Part 12 of the NPPF and Policies CSTP22 and PMD2 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development 2015.*

### 3.3 Assessment of the November 2022 Committee's reasons for being minded to grant permission

The following list of reasons were raised by Members as reasons to approve the application and these are considered in more detail below to assess whether these comprise the VSC necessary for approving inappropriate development in the GB. The reasons are:

- a) the scheme would provide 100% affordable housing (AH);
- b) the Council is unable to demonstrate a 5-year housing land supply (+ 20% buffer) and the scheme would contribute to the delivery of new housing;
- c) the scheme would provide for local transport upgrades;
- d) the scheme would deliver low carbon and 'zero bill' development; and
- e) the scheme would have an accelerated implementation period of 18 months.

### 3.4 Reason a): the scheme would provide 100% AH

For the avoidance of doubt 'AH' includes a range of housing products and is

defined in the NPPF (2021) as:

*“Housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:*

*(a) Affordable housing for rent;*

*(b) Starter homes;*

*(c) Discounted market sales housing; and*

*(d) Other affordable routes to home ownership (e.g. shared ownership)”.*

All of the proposed 230 dwellings would be ‘affordable housing’ and the applicant’s draft UU confirms that 172 dwellings (75%) will be ‘Intermediate Housing’ (i.e. affordable home ownership) and 58 dwellings (25%) will be ‘Affordable Rent’. Core Strategy policy CSTP2 (Provision of Affordable Housing) firstly seeks a minimum provision of 35% affordable housing on qualifying sites. The 100% affordable housing provision as proposed is clearly the maximum which can be achieved on any site. CSTP2 also seeks an affordable housing mix of 70% affordable rent and 30% intermediate (i.e. definition (d) above). However, as noted at paragraph no. 6.28 of the November 2022 report, as the proposal delivers 100% AH more intermediate and affordable rent dwellings would be provided via the proposals than would be delivered by a policy compliant 35% AH provision. It is also worth noting that (according to the Council’s website) 64 AH units were completed in 2021/22 representing 24.7% of the total of target 259 annual completions on large housing site of more than 10 dwellings. In this context the delivery of 230 AH dwellings on a single site represents a substantial contribution towards the delivery of AH.

3.5 The weight to be attributed to any material consideration, such as provision of AH, is a matter for the Planning Committee as decision taker. Officers concluded in the November 2022 Committee report that ‘significant’ positive weight should be given to the delivery of 100% AH. On further consideration of recent major applications for residential development in the Green Belt it is apparent that ‘significant’ weight has been applied to policy compliant proposals for 35% AH provision. As referred to in the verbal update by Officers, as the absolute maximum of 100% AH would be secured by this proposal, it is concluded that the weight attributed to the delivery of AH should be increased to ‘very significant’. Members indicated that ‘very significant’ weight should be attached to this benefit. Officers conclude that it is reasonable to reach this conclusion.

3.6 Reason b): the Council is unable to demonstrate a 5-year housing land supply (+ 20% buffer) and the scheme would contribute to the delivery of new housing

The lack of a 5-year housing land supply (+ 20% buffer) is not disputed and is



recognised by the November 2022 Committee report. The most recently Council-published position statement for housing land supply is out of date, though it is accepted that the current figure is less than the 2.5 to 2.7 years supply published in 2016. An updated 5-year housing land supply figure in preparation and, if available, will be confirmed to the Committee.

- 3.7 The more recently published 2021 Housing Delivery Test measurement for Thurrock confirms the following:

No. of homes required			Total no. of homes required	No. of homes delivered			Total no. of homes delivered	Housing Delivery Test 2021 measurement
2018-19	2019-20	2020-21		2018-19	2019-20	2020-21		
1169	1068	764	3001	408	558	493	1459	49%

The above data confirms that less than half of the new housing required for the Borough between 2018-19 and 2020-21 has been delivered.

- 3.8 The November 2022 Committee report placed ‘significant’ positive weight on this factor in the planning balance. As above, the weight to be attributed to the scheme’s contribution towards new housing delivery is a matter for the Planning Committee as decision taker. Therefore, whether ‘very significant’ positive weight applies is for Members to decide. However, it is clear that there has been a longstanding under-supply of new housing in Thurrock over a number of years.

- 3.9 Reason c): the scheme would provide for local transport upgrades

The previous Committee report referred to a financial contribution of £100,000 to provide an adverse weather cover on the platforms at East Tilbury railway station. The draft UU confirms this sum of money which is defined as a contribution “*towards the upgrading of East Tilbury Station and to be spent by the Council in consultation with the West and East Tilbury and Linford Community (WELCOM) Forum*”. The applicant’s agent has advised that the north-bound platform at the station does not currently have any shelter for travellers and the contribution could provide such a feature.

- 3.10 It is notable that there are limited passenger facilities at the station: the train operating company (C2C) has confirmed that the station facilities comprise step free access and wi-fi availability only. However, whilst C2C have confirmed their support, upgrades at East Tilbury station have not been identified on the Council’s Infrastructure Requirements List and would ordinarily be a matter for the train

operator and / or Network Rail to address. This factor has to be balanced against the fact that the site is located in very close proximity to the station such that this benefit is genuinely site-specific and could not easily be replicated on other Green Belt sites.

- 3.11 The previous report to Planning Committee concluded that limited positive weight should be afforded to this benefit. Members indicated that 'moderate' weight should be placed on this factor. In light of the analysis above it is for the Committee to decide the weight which should be attributed to this factor in the planning balance.

- 3.12 Reason d): the scheme would deliver low carbon and 'zero bill' development

Paragraph numbers 6.38-9 of the November report explained that the modular construction method proposed delivers some inherent advantages in terms of reductions in carbon emissions. However, unlike the Ilke Homes development at Stanford-le-Hope (currently under construction), the report noted that there were no proposed measures over and above the applicable standards for environmental sustainability. This resulted in limited weight being placed on this benefit. However, Members were verbally advised at the November meeting that the housebuilder had committed to provide 25% of the dwellings (58 units) as 'Zero Carbon / Zero Bills Homes'.

- 3.13 The draft UU provided by the applicant addresses this benefit and defines 'Zero Carbon Homes' as dwellings with net zero annual regulated operational carbon emissions. 'Zero Bills Homes' is also defined by the UU as per the wording at paragraph no. 2.3 above. Given this commitment Members were verbally advised at the previous meeting that more than limited weight should be applied to this benefit. The Committee could legitimately conclude that moderate positive weight could be applied to this factor.

- 3.14 Reason e): the scheme would have an accelerated implementation period of 18 months

As this is an application seeking full planning permission, if permission were to be granted, subject to compliance with the requirements of any pre-commencement planning conditions, construction could in theory proceed promptly. Members will be aware that outline planning permissions require approval of both reserved matters and pre-commencement planning conditions before development can commence. It is also relevant that the applicant has drafted a UU, which if legally robust, could be completed quicker than conventional 'two-sided' s106 legal agreements. Finally, the modular construction method proposed by Ilke Homes results in a faster build-out rate compared to traditional housebuilders.

- 3.15 The applicant has provided a draft planning condition which requires that the

development must be commenced within 18 months of the grant of planning permission, rather than the standard 3 years. Advice in National Planning Practice Guidance advises that

*“The local planning authority may wish to consider whether a variation in the time period could assist in the delivery of development. For example, a shorter time period may be appropriate where it would encourage the commencement of development ... The national planning policy framework encourages local planning authorities to consider imposing a shorter time period to ensure that proposals for housing development are implemented in a timely manner”.*

3.16 However, a condition requiring that the development shall be completed within a specified time limit could not be used as it would not meet the relevant tests set out at paragraph no. 56 of the NPPF. Consequently it is considered that only ‘limited’ positive weight should be placed on this benefit.

3.17 The November 2022 Committee report (at paragraph no.6.46) set out the summary of the balancing GB balancing exercise which must be undertaken, including the Officer view of the various weights to be attached to material considerations. In light of the analysis above, an update to the table is provided below:

<b>Summary of GB harm and other considerations promoted as clearly outweighing harm such that VSC exist</b>				
<b>Harm</b>	<b>Weight</b>	<b>Factors / benefits promoted by the applicant</b>	<b>Original Weighting</b>	<b>Updated Weighting</b>
Inappropriate development in the GB	Substantial	<i>Delivery of 100% affordable housing</i>	Significant Weight	Very Significant Weight
Reduction of the openness of the GB	Substantial	<i>Transport upgrades to the existing station environment in East Tilbury and facilitating modal shift towards sustainable forms of transport.</i>	Limited Weight	Limited Weight

Conflict (to varying degrees) with a number of the purposes of including land in the GB – purposes a, c and e.	Substantial	<i>Positively responding to the lack of 5-year housing land supply</i>	Significant Weight	Very Significant Weight
		<i>Low carbon development</i>	Limited Weight	Moderate Weight
		<i>Connectivity enhancements to the wider country park setting.</i>	Moderate Weight	Moderate Weight
		<i>Ecological and Biodiversity Enhancements</i>	No Weight	No Weight
		<i>Accelerated build programme to respond to immediate housing shortfall</i>	Limited Weight	Limited Weight
		<i>Thurrock is a National Growth Area and has Freeport Status</i>	No Weight	No Weight

3.18 As above, it is for the Committee as the decision taker to (i) agree the weight allocated to the individual factors / benefits (ii) the cumulative weight which the factors / benefits accrue and (iii) whether individually or collectively the factors / benefits clearly outweigh the harm to the GB and any other harm. It must be remembered that the previous report identified a second reason for refusal based upon design quality. At the previous meeting Members referred to the standard housing types which are a defining feature of the Bata housing to the south of the railway line and drew a comparison between the modular housing proposed and the Bata estate. Ultimately the Committee need to conclude whether (i) the design quality of the development is of a sufficiently high quality; and (ii) if the development falls below the benchmark of ‘high quality’, whether the benefits of the scheme outweigh the harm. In assisting the Committee to reach a conclusion on this point it is useful to refer to paragraph no. 130 of the NPPF which states:

*“Planning policies and decisions should ensure that developments:*

*(a) will function well and add to the overall quality of the area, not just for the short*

*term but over the lifetime of the development;*

- (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- (d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users 49 ; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*

3.19 If the resolution to grant permission contrary to recommendation is maintained by the Committee, all harm must be considered. In these circumstances Members need to be satisfied that the factors / benefits described above clearly outweigh harm to the GB, as well as any other harm including possible lack of design quality.

**4.0 POTENTIAL S106 AGREEMENT ‘HEADS OF TERMS’ & PLANNING CONDITIONS**

4.1 As noted above, the applicant has now produced a draft UU which commits to the following planning obligations:

<b>Description</b>	<b>Trigger</b>	<b>Amount</b>
<p><u>Affordable Housing</u></p> <p>The scheme will be 100% affordable. The mix to comprise of:</p> <p>7 x 1-bedroom;                      87 x 2-bedroom;                      84 x 3-bedroom; and                      52 x 4-bedroom.</p>	N/A	N/A

Description	Trigger	Amount
<p>172 units (75%) provided as 'Intermediate Housing 58 units (25%) provided as 'Affordable Rent'</p>		
<p><u>Education</u></p> <p>Financial contributions of:</p> <p>£1,952,838.18 to mitigate the impact of the development on local primary school provision</p> <p>£1,125,686.00 to mitigate the impact of the development on local secondary school provision</p>	<p>To pay to the Council 50% of the Education Contribution prior to Commencement of the Development</p> <p>Not to allow nor permit Commencement of the Development until 50% of the Education Contribution has been paid to the Council</p> <p>To pay to the Council the remaining 50% of the Education Contribution prior to first Occupation of any of the Dwellings</p>	<p>Total: £3,078,524.18</p>
<p><u>East Tilbury Railway Station Upgrades</u></p> <p>Upgrades to the station environment in accordance with Thurrock Council Infrastructure Requirements List</p>	<p>Not to allow nor permit Commencement of the Development until 50% of the Station Contribution has been paid to the Council</p> <p>To pay to the Council the remaining 50% of the Station Contribution prior to first Occupation of any of the Dwellings</p> <p>The contribution will be spent in consultation with the West &amp; East Tilbury and Linford Community (WELCOM) Forum and</p>	<p>Total: £100,000.00</p>

Description	Trigger	Amount
	Thurrock Council (Regeneration).	
<p><u>Sustainable Travel Enhancements</u></p> <p>This will consist of improvements to the cycle storage, bus shelter, bus lay-by and public electric vehicle charging points.</p>	Prior to occupation of the first residential dwelling.	Section 278 Agreement
<p><u>Safeguarded Bridge Land</u></p> <p>To facilitate future pedestrian connectivity to the local area and public open spaces, the scheme will include the safeguarding of land for potential future provision of a footbridge over the rail lines by Thurrock Council.</p>	The safeguarded land will be managed and maintained for 20 years by a management company. The land will be safeguarded prior to commencement on site and the establishment of a management company to manage and maintain the public areas within the Site will be secured through a planning condition.	Land
<p><u>Healthcare</u></p> <p>The scheme will include the provision of a financial contribution towards the enhancement and expansion of NHS Services within the local area.</p>	<p>To pay to the Council 50% of the Health Contribution prior to Commencement of the Development</p> <p>Not to allow nor permit Commencement of the Development until 50% of the Health Contribution has been paid to the Council</p> <p>To pay to the Council the remaining 50% of the Health Contribution prior</p>	£90,600.00

Description	Trigger	Amount
	to first Occupation of any of the Dwellings	
<p><u>Linford Woods Connection</u></p> <p>Works to include construction a new footbridge from the Site into Linford Wood and undertaking path improvement works within the wood to ensure that they are readily useable by the public</p>	<p>Payment will be made prior to occupation of the 115th dwelling.</p>	<p>£80,000.00</p>
<p><u>RAMS</u></p> <p>The Essex coast Recreational disturbance Avoidance and Mitigation Strategy (the “Essex coast RAMS” or the Strategy) aims to deliver the mitigation necessary to avoid significant adverse effects from ‘in-combination’ impacts of residential development that is anticipated across Essex; thus protecting the Habitats (European) sites on the Essex coast from adverse effect on site integrity.</p>	<p>Payable on the commencement of works.</p>	<p>£29,279.00</p>
<p><u>Trim Trail</u></p> <p>The scheme will include a minimum of 12 pieces of outdoor equipment.</p>	<p>The Applicant will not commence Development until details of the Outdoor Equipment to provide a trim-trail route and its location have been submitted to and approved by the Council. The Applicant not to Occupy more than fifty per cent (50%) of the Residential Units until the approved Outdoor</p>	<p>£35,000.00</p>



Description	Trigger	Amount
	Equipment has been provided and installed by the Owner at its own expense within the approved location within the Open Space.	
<p><u>Defibrillator</u></p> <p>The WELCOM Forum have requested the provision of a defibrillator within immediate proximity to the railway station.</p>	Upon completion of the development.	£5,000.00
<p><u>Public Realm</u></p> <p>Towards community facilities and/or public realm in the East Tilbury/Linford area</p>	Payable prior to first occupation of the 115 <sup>th</sup> dwelling	£225,000.00
<p><u>Monitoring Fee</u></p> <p>The revenue generated from this fee will be used towards S106 administration and monitoring purposes only.</p>	<p>Payable on the commencement of works.</p> <p>The owner shall notify the Council of commencement, compliance related matters and completion of development</p>	£5,000.00
<p><u>Indexation</u></p> <p>Means linked to upwards or downwards movements in the Index between the date hereof and the date that payment falls</p>	<p>The Contributions(s) shall be Index Linked from the date of the Planning Permission to the date of payment.</p> <p>The RAMS contribution shall be Index Linked by reference to the Retail Prices (RPI) using the indexing factor for March of the year of payment</p>	

Description	Trigger	Amount
	<p>(C+B) x A= D where:                      A = the amount of the relevant Contribution                      B = the last figure published in the CPI prior to the date of this Deed;                      C = the last figure published in the CPI prior to the date the payment falls due (or the actual payment, if later); and                      D = the recalculated Contribution amount in pounds sterling applying under this Deed</p>	

4.2 As noted earlier in this report, the applicant’s UU is in effect a ‘one-sided’ s106 legal agreement which places enforceable obligations on those parties with an interest in the site, but does not place obligations on the local planning authority. Paragraph number 57 of the NPPF refers to planning obligations and states that they:

*“must only be sought where they meet all of the following tests:*

- a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.”*

4.3 In this case although the obligations in the table above are offered unilaterally by the applicant, the NPPF paragraph no. 57 tests are still of relevance. It is debatable whether the financial contributions offered towards a defibrillator and public realm would meet these tests. In deciding whether the planning obligations are factors which weigh in favour of the development Members of the Planning Committee must also bear in mind which of the obligations offered provide mitigation for the impacts generated by the proposals and which are benefits meeting the NPPF tests.

4.4 To assist the Committee (in the event that the resolution to grant permission is confirmed), the following topics would form the basis of planning conditions to be attached to any grant of planning permission:

1. Time limit for commencement;
2. Accordance with submitted plans;
3. Details of finishing materials;
4. Secure by Design measures;
5. Details of boundary treatments;
6. Details of landscaping;
7. Details /retention of Trim Trail / outdoor exercise equipment;
8. Landscape management;
9. Details of external lighting;
10. Restricted use of secondary access;
11. Travel Plan;
12. Provision / retention of parking provision;
13. Electric charging points for vehicles;
14. Provision of estate roads / footpaths;
15. Construction Environment Management Plan;
16. Network Rail safeguarding conditions;
17. Foul water drainage scheme;
18. Archaeological investigation conditions;
19. Noise insulation; and
20. Surface water drainage scheme.

## **5.0 OVERALL CONCLUSIONS**

- 5.1 As required by the Constitution, the implications of the Committee approving this application, which is a departure from national and local planning policies, are set out above. This report goes on to analyse the five reasons for approving the application, contrary to Officer recommendation, provided by the November Committee. These reasons to a degree reflect the benefits of the scheme promoted by the applicant. It is for the Committee to decide the weight to be given to the material considerations and benefits, both individually and cumulatively. Members of the Committee must also recognise the harm to the Green Belt, and allocate that harm 'substantial' weight in the planning balance. After weighing harm to the Green Belt (and any other harm) it is for the Committee to determine whether harm is 'clearly outweighed' such that the VSC for approving inappropriate development exist.

