Colchester City Council Local Plan Review – Regulation 19 Consultation

Soundness Representations concerning Draft Policy PP37: Land north of Park Lane, Langham

Sewerage Statement for Langham Parish Council (Report SR1)

Introduction

1. This representation objects to the allocation of **PP37, Land North of Park Lane, Langham**, on the grounds that the Regulation 19 Plan has not demonstrated that the proposed development can be delivered effectively and sustainably in relation to wastewater infrastructure.
2. The Council's own Infrastructure Audit and Delivery Plan (IADP) Stage 4 identifies **no baseline capacity at Langham Wastewater Recycling Centre (WRC)** and records a significant existing capacity deficit. The evidence indicates that current measured flows already exceed the permitted flow and that the proposed growth would substantially increase the deficit.
3. Despite this, the Plan relies upon future infrastructure improvements and phasing arrangements without establishing a sufficiently clear, funded and enforceable mechanism to ensure that wastewater infrastructure will be available **before development reaches the point at which it requires that capacity**.
4. The result is an important internal inconsistency between the Council's evidence base and the wording of the Plan. The evidence indicates that there is currently no available capacity and no committed improvement programme, while the Plan nevertheless allocates substantial development subject to requirements which appear capable of being satisfied at different and potentially much later stages of the development process.
5. The allocation should therefore be found unsound unless the Council can demonstrate, through appropriate main modifications, a clear and deliverable wastewater infrastructure strategy which establishes the infrastructure required, how and when it will be funded and delivered, and an enforceable trigger preventing development from connecting to the sewerage system until the necessary capacity is demonstrably available.

Ground 1 – The allocation has not been demonstrated to be deliverable

6. The IADP Stage 4 evidence identifies Langham WRC as having **"No capacity" at baseline**. The evidence records a permitted flow of approximately 420 m^3/day against a current measured dry-weather flow of approximately 486 m^3/day, giving a reported current headroom of approximately **–66 m^3/day**.
7. The same evidence projects post-growth dry-weather flow of approximately 792 m^3/day and post-growth headroom of approximately **–372 m^3/day**, representing a substantial capacity deficit if the planned growth proceeds without infrastructure intervention.
8. This is not simply a matter of additional capacity being required at some point during the development. The Council's evidence indicates that the WRC is already operating without baseline headroom.
9. The IADP further indicates that there are **no current plans to improve the Langham WRC within the current AMP or longer-term DWMP strategy**, that there will be phasing implications, and that options are being explored.
10. Consequently, the evidence base does not establish the essential elements normally required to demonstrate deliverability: namely, a defined infrastructure solution, funding,

delivery responsibility, programme, necessary approvals and a sufficiently certain delivery date.

11. It is therefore not sufficient for the Plan simply to assume that an engineering solution can subsequently be developed. The allocation must be supported by evidence demonstrating that the infrastructure necessary to serve the allocated development can realistically be delivered within the Plan period and in step with development.

Ground 2 – The Plan contains an internally inconsistent approach to the timing of wastewater capacity

12. The Plan's approach to wastewater infrastructure contains materially different requirements concerning the point at which capacity must be demonstrated.
13. In relation specifically to PP37, paragraph 12.124 states that developers must engage with Anglian Water and, **prior to submission of a planning application**, demonstrate that sufficient capacity is available within Langham WRC and the associated sewerage network, or that an agreed strategy is in place to deliver the necessary upgrades.
14. By contrast, Policy NZ3 adopts an approach based substantially upon infrastructure being provided **ahead of occupation**, with development supported where necessary infrastructure improvements have been demonstrated to be deliverable and completed prior to occupation.
15. NZ3 also refers to the position where insufficient capacity exists at the **point of anticipated connection**, and provides for appropriate phasing triggers.
16. These provisions are not necessarily incapable of being reconciled, but the Regulation 19 Plan does not adequately explain how they operate together in practice.
17. In particular, there is a fundamental difference between:

a. demonstrating capacity before submission of a planning application;

b. having an agreed strategy for delivering future capacity;

c. demonstrating deliverability before development commences;

d. having capacity available when a development connects to the sewerage network; and

e. completing infrastructure before dwellings are occupied.

18. These are different safeguards occurring at different stages of development. The Plan needs to specify which event constitutes the operative infrastructure trigger.
19. Without such clarity, there is a risk that planning permission could be granted on the basis of an "agreed strategy", while development subsequently progresses towards connection or occupation before the required infrastructure has actually been delivered.

Ground 3 – An “agreed strategy” is not an adequate substitute for demonstrated capacity unless its content is defined

20. Paragraph 12.124 permits the requirement for demonstrated existing capacity to be satisfied through an **“agreed strategy”** for delivering necessary upgrades.
21. However, the Plan does not sufficiently define what constitutes such an agreed strategy.

22. Given the absence of baseline capacity at Langham WRC, and the sewerage network infiltration problems already confirmed by Anglian Water, an agreed strategy should, at a minimum, identify:

a. the precise infrastructure works required;

b. the additional treatment works capacity and hydraulic sewerage network capacity to be provided;

c. the estimated cost of the works;

d. the source and security of funding;

e. the party responsible for delivery;

f. the necessary regulatory and other approvals;

g. the programme for design, approval, construction and commissioning;

h. the maximum amount of development capable of being served at each stage;

i. the trigger preventing further connections if delivery is delayed; and

j. arrangements ensuring that the infrastructure is operational before the development relies upon it.

23. In the absence of these matters, an "agreed strategy" risks becoming a procedural commitment to seek a solution rather than evidence that the solution is actually deliverable.
24. This is particularly important in this case because the Council's own evidence indicates that there is currently no baseline capacity and no committed Langham WRC improvement programme.

Ground 4 – Technical feasibility is not the same as deliverability

25. The Council's evidence indicates that technically achievable wastewater treatment solutions may be capable of being developed.
26. However, technical feasibility does not establish deliverability.
27. For the purposes of soundness, the relevant question is not simply whether engineers could theoretically devise a solution, but whether there is sufficient evidence that the necessary infrastructure **will be delivered when required**.
28. The Plan therefore needs to move beyond the identification of potentially technically feasible solutions and establish a funded and programmed delivery mechanism.
29. Until that is demonstrated, the allocation remains dependent upon an uncertain future intervention rather than infrastructure which is demonstrably capable of supporting the proposed growth.

Ground 5 – Phasing must be linked to actual infrastructure capacity

30. The Plan refers to phasing where wastewater capacity is insufficient.

31. Phasing can be an effective planning mechanism, but only where each phase is linked to a clearly defined level of available infrastructure capacity and to a specific infrastructure intervention.
32. A generic requirement to phase development does not itself demonstrate that the allocation is deliverable.
33. For PP37, the Plan should establish, for each phase:

a. the maximum number of dwellings which may proceed;

b. the wastewater capacity available to serve that phase;

c. the infrastructure required before that phase can proceed;

d. who is responsible for delivering that infrastructure;

e. how it will be funded; and

f. the precise event which prevents the next phase proceeding if the infrastructure is not available.

34. In particular, the trigger should be capable of preventing additional dwellings from connecting to the sewerage system where the necessary treatment or network capacity has not actually been commissioned.
35. Without such provisions, "phasing" risks merely postponing the point at which the capacity problem becomes apparent rather than providing an effective mechanism for resolving it.

Ground 6 – The Plan should distinguish connection from occupation

36. The distinction between **connection** and **occupation** is particularly important.
37. A requirement for infrastructure to be completed before occupation does not necessarily prevent infrastructure capacity from being committed or the development from progressing towards connection before the necessary works are operational.
38. Given the evidence of an existing capacity deficit at Langham WRC, the critical safeguard should be linked to the point at which additional foul flows are capable of entering the sewerage system.
39. The Plan should therefore require the relevant wastewater infrastructure to be operational, rather than merely planned or under construction, before the corresponding number of dwellings can connect to the sewerage system.
40. A further safeguard requiring the relevant infrastructure to be operational before occupation should also be retained.

Ground 7 – The evidence base and policy requirements have not been adequately reconciled

41. The Regulation 19 Plan should provide a coherent relationship between the evidence base, allocation policy and infrastructure delivery mechanism.
42. At present, there is a material disconnect:

Evidence: Langham WRC has no baseline capacity and a substantial existing and projected capacity deficit.

Infrastructure position: the Council's evidence does not identify a committed Langham WRC improvement programme capable of resolving that deficit within a defined timescale.

Allocation: PP37 nevertheless proposes substantial development at Langham.

Policy mechanism: the Plan relies upon future engagement, an "agreed strategy" and phasing, without sufficiently defining the infrastructure, funding, programme and enforceable connection triggers which would make those mechanisms effective.

43. The Plan has therefore not demonstrated that the allocation is **effective and deliverable** as presently drafted.

Soundness assessment

44. **Positively Prepared: Unsound.** Repeated sewerage permit breaches in Langham have been recorded since 2014, but the draft Local Plan fails to identify any clear strategy or mechanism to resolve this longstanding problem.
45. **Justified: Unsound.** The PP37 allocation depends upon infrastructure which the evidence base does not yet demonstrate can be delivered within the necessary timescale.
46. **Effective: Unsound.** The wastewater provisions do not establish a clear, unambiguous, enforceable and consistently applied infrastructure trigger.
47. **Consistent with National Policy: Unsound.** The strategic PP37 allocation fails to comply with NPPF paras 20(b), 34, 35(b), 35(c), 35(d) and 187(e)

Requested modification

48. The Inspector is respectfully requested to find the allocation unsound unless the Council can demonstrate a robust and deliverable wastewater infrastructure solution.
49. The Plan should be modified so that PP37 cannot proceed beyond clearly defined development thresholds unless the wastewater infrastructure required to serve the relevant phase has been **funded, delivered and commissioned**, with sufficient capacity confirmed by the relevant statutory undertaker and regulator.
50. In particular, the modified policy framework should:

a. define the minimum requirements for an "agreed strategy";

b. identify the infrastructure required to serve PP37;

c. identify funding and delivery responsibility;

d. establish a clear infrastructure delivery programme;

e. specify maximum development levels for each phase;

f. require the relevant infrastructure to be operational before the corresponding development can connect to the sewerage network;

g. retain a requirement for infrastructure to be operational before occupation; and

h. establish an automatic prohibition or cessation of further connections/development if the required infrastructure is delayed or does not achieve the necessary capacity.

47. If the Council cannot demonstrate that such a funded and deliverable strategy exists, the Inspector is requested to conclude that **PP37 has not been demonstrated to be deliverable and should not be retained as an allocation in its present form**.

Conclusion

48. The objection is not based upon the proposition that wastewater infrastructure can never be provided at Langham. It is based upon the more fundamental soundness issue that the Regulation 19 Plan has not demonstrated **how, when, by whom and with what funding** the infrastructure required for PP37 will be delivered.
49. The Council's own evidence identifies a substantial existing and future capacity deficit, while the Plan relies upon future infrastructure intervention whose funding, programme and delivery mechanism have not been sufficiently established.
50. In these circumstances, the current provisions do not provide the clear, effective and enforceable safeguards necessary to demonstrate that PP37 is deliverable.
51. **The Inspector is therefore requested either to require the main modifications set out above, or, if the necessary evidence of funded and deliverable wastewater infrastructure cannot be provided, to conclude that PP37 is unsound and should be deleted from the Plan.**