

Date



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ADDENDUM

CHIEF EXECUTIVE
Doug Wilkinson

Dear Councillor

DISTRICT PLANNING COMMITTEE - THURSDAY 15 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.

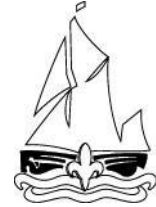
5. **26/00138/OUTM - Land South of Threeways and 45 The Street, Latchingdon, Essex**(Pages 3 - 8)
6. **26/00267/OUTM - Land Adjacent Pump House Catchpole Lane Great Totham Essex**(Pages 9 - 12)

Yours faithfully

Chief Executive

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**CIRCULATED
BEFORE THE
MEETING**



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

**to
DISTRICT PLANNING COMMITTEE
15 OCTOBER 2026**

ADDENDUM

AGENDA ITEM NO. 7

Application Number	26/00138/OUTM
Location	Land South Of Threeways & 45 The Street, Latchingdon
Proposal	Outline planning application with all matters reserved except for means of access, for up to 140 dwellings (Use Class C3), including 40% affordable housing; new site access and internal access roads; a new village centre (Use Class E(a)); flexible employment space (Use Class E); car and cycle parking; landscaping; sustainable urban drainage systems; public open space and footpaths; community woodlands and allotments; together with associated infrastructure.
Applicant	EJ Latchingdon Ltd
Agent	Mr Matthew Driscoll - MJD Planning Ltd
Target Decision Date	2 October 2026 (EoT)
Case Officer	Matt Bailey
Parish	Latchingdon
Reason for Referral to the Committee / Council	Major application

1. ADDITIONAL REPRESENTATIONS AND OFFICER RESPONSES

Further representations have been received following publication of the Committee reports. Any issues raised in these submissions that have not already been addressed within the original committee report are summarised in the table below. Matters relating to foul drainage, including the statutory consultees' latest correspondence and legal advice, are addressed more fully in Section 2.

Issue raised	Officer response
Foul drainage capacity, Anglian Water (AW) objections and whether a Grampian condition is appropriate.	The constraints and continuing objection from AW are acknowledged. Discussions have been held with AW regarding the wording of the fallback condition proposed by AW. The alternative drainage arrangements, legal position and proposed amended condition are considered in Section 2 below.

Habitats Regulations Assessment (HRA), including functionally linked land and potential water-quality effects alone and in combination with other development.	The September report records the Council's Appropriate Assessment and consideration of updated surveys, ecology advice and Natural England's response. The precise scope of any operational foul-water pathway assessment, including cumulative effects and alternative discharge routes, should be verified against the Council's assessment record; see Section 2.
Whether updated bird surveys address the previous Inspector's concern.	Updated wintering and breeding bird surveys informed the revised ecological assessment; the September report records Place Services Ecology's withdrawal of its holding objection and Natural England's position. These matters were addressed in the ecological assessment in that report.
Whether highways, wider infrastructure, flood risk and Section 106 delivery have been sufficiently addressed.	These issues are covered in the September report, including highways consultation, education and healthcare contributions, the revised sequential test and the proposed planning obligations. Counsel's advice on the sequential test is summarised in the 15 October report. The proposed Section 106 agreement would secure the necessary obligations and triggers.
Whether the on-site treatment options can be accommodated within approved parameters.	The application is outline with layout reserved, although approved parameter plans would remain controlling. A subsequent scheme would have to demonstrate that the selected solution can be accommodated without conflicting with those parameters; see Section 2.
Whether other affordable homes delivered in Latchingdon alter the weight given to the proposed provision.	The reported transfer of 80 dwellings within another 160-home affordable scheme is noted. That delivery should be considered against the latest monitoring and housing-need information, but does not in itself remove the benefit of up to 56 policy compliant affordable dwellings proposed here.

2. FOUL DRAINAGE MATTERS

2.1 Issues raised and background

- 2.1.1 A number of queries have been raised regarding the current insufficient capacity at Latchingdon Water Recycling Centre (WRC). The comments refer to AW's continuing objection and the absence of any funding for upgrades of the WRC prior to 2030. Concerns are raised regarding the three alternatives in the drainage note of 1 October 2026, the appropriateness of a Grampian condition and the relevance of the High Court judgment in *Lund v Secretary of State for Housing, Communities and Local Government* and another [2026] EWHC 2474 (Admin). Further questions were also raised regarding the consultation with statutory bodies, the foul drainage hierarchy, environmental permit requirements, the compatibility of an on-site solution with the approved parameters and potential water quality effects.

2.1.2 AW has confirmed existing network and treatment constraints and has maintained its objection on grounds of capacity and pollution risk. No upgrade to Latchingdon WRC is funded within AMP8 (2025–2030); the position for AMP9 has yet to be determined. Those constraints are not disputed by officers. However, the consultation response proposes a condition to be imposed in the event that the local authority grants planning permission for the scheme.

2.2 Previous Decisions and Legal Advice

2.2.1 The previous appeal Inspector accepted that the sewerage issue could in principle be controlled by an appropriately framed Grampian condition, whilst recognising uncertainty about when improvements would be achieved and noting possible alternatives. Written advice from Matthew Fraser of Landmark Chambers dated 6 October 2026, summarised in the Committee report for 15 October, supports the approach of resolving an acceptable drainage solution through a condition. The separate legal opinion previously supplied in respect of the application likewise supports the use of a Grampian condition, subject to its proper drafting and the relevant legal tests.

2.3 Supplementary confirmation from Counsel following Lund

2.3.1 A Grampian condition may prevent development proceeding until a necessary solution is approved and may prevent occupation until the infrastructure is available. It does not compel a statutory undertaker to carry out works or establish that works are certain to take place. The high court judgment in Lund reinforces the need to consider the practical prospect of implementation rather than relying on a purely theoretical possibility. The relevant planning judgment remains whether there is some prospect of delivery in the applicable period, having regard to the evidence and the terms of the condition.

2.3.1 Officers sought further advice specifically on Lund. In an email dated 15 October 2026, Matthew Fraser stated:

“I can confirm that Lund does not materially affect any of the advice I have previously given to the Council. It is an entirely orthodox example of an application of the “some prospect” test for Grampian conditions. In that case, the Inspector was not satisfied that there was “some prospect” of the relevant highway works being undertaken within the time permitted for the development to commence. Conversely, in the present case at Latchingdon, the Inspector in the previous appeal reached a clear finding that there was some prospect of the sewerage improvements being achieved (albeit there was some uncertainty). The Inspector also noted the alternative solutions.”

2.3.2 Officers have had regard to this supplementary advice and to the earlier advice from the Council's Monitoring Officer. Both support the principle that the identified drainage constraint can be dealt with by an appropriately framed condition. The condition must nevertheless be sufficiently precise and enforceable and its requirements must be capable of satisfaction in practice.

2.4 Environment Agency (EA) position and drainage alternatives

2.4.1 On 6th October 2026 the EA submitted supplementary consultation comments by email, originally intended to accompany its April 2026 response. The comments distinguish between connection to the existing public system (Option 1), an on-site works adopted and operated by a New Appointment and Variation (NAV) sewerage undertaker (Option 2), and a privately operated package treatment works (Option 3).

2.4.2 Whilst the EA indicates that any proposal for package treatment works are generally considered unacceptable, it expressly raises no objection in principle to Option 2, subject to its specified adoption condition. It explains that a public sewerage system owned and operated by a NAV is assessed on the basis that it should present no greater risk than an equivalent system operated by the incumbent undertaker. It also requires attention to the minimum flows needed for effective treatment and phasing of occupation. The NAV would need to obtain the necessary status and apply for an environmental permit; an acceptable planning condition cannot guarantee that a permit will subsequently be granted.

2.4.3 Taking these comments on board, officers have discussed a proposed expansion of the condition wording with the EA and AW. The revised wording more expressly requires justification against the foul drainage hierarchy, identification of a sustainable point of connection, assessment of receiving network and treatment capacity, details of any improvements and phasing, and the appropriate permits or adoption arrangements before occupation. The condition also includes a requirement to consult with EA as part of any assessment of the foul drainage strategy. The following wording is proposed for condition 15:

C15 - 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 AW and the EA. 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, and final confirmed method of foul drainage. 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 AW 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.

2.4.4 In response by email on 14th October, whilst AW maintains its objection (given the current capacity status) it nonetheless supported the proposed condition wording subject to including reference to an “agreed sustainable point of connection” where public sewerage is proposed and recognised that alternative modes of foul disposal may need to be accommodated in the condition. AW stated that it could not comment on the acceptability of private alternatives and did not recommend making occupation conditional on confirmation that capacity is available at the receiving WRC, as such capacity cannot be guaranteed.

2.4.3 EA have also responded to confirm its acceptance of the above wording on 15th October. It is noted that the Agency’s general concerns about private treatment particularly affect Option 3. Correspondence received on 15 October indicates that non-mains drainage would be likely to attract an objection on the information then available, but states that it would not object to the outline application at that stage while mains connection remained an option. It also confirms that an environmental permit is not required before grant of planning permission and that permitting is a separate process.

2.5 Response to further points raised and overall position

2.5.1 The further correspondence does not establish that a particular discharge or treatment scheme has already been permitted or can be accommodated in a final reserved-matters layout. Nor does it remove the need for the Council to discharge its separate duties under the Habitats Regulations in respect of any relevant water-quality pathway, alone or in combination. Any material change in the proposed drainage route or receiving environment must be assessed as necessary before it can be approved.

2.5.2 Nevertheless, two separate legal opinions support the use of an appropriately framed Grampian condition in the circumstances of this application, with Counsel's supplementary advice expressly addressing Lund. The EA has also confirmed conditional support in principle for at least one alternative to AW connection, Option 2 (NAV-adopted treatment works). The existing capacity objection and the absence of AMP8 funding remain relevant, but do not alone establish that no acceptable solution is capable of delivery. Subject to the safeguards in the amended condition, officers maintain that foul drainage is capable of being addressed without changing the recommendation to approve.

CIRCULATED PRIOR
TO THE MEETING



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

to
**DISTRICT PLANNING COMMITTEE
15 OCTOBER 2026**

ADDENDUM

AGENDA ITEM NO. 6 Land Adjacent Pump House Catchpole Lane Great Totham

Application Number	26/00267/OUTM
Location	Land Adjacent Pump House Catchpole Lane Great Totham Essex
Proposal	Outline planning application with all matters reserved except access for up to 150 dwellings (Class C3) including affordable homes, public open space, sustainable drainage systems, landscaping and associated development.
Applicant	Mr Jonny Hill, Burlington UK
Agent	Mrs Kate Sutton - Andrew Martin - Planning
Target Decision Date	22/10/2026
Case Officer	Gareth Ball
Parish	Great Totham
Reason for Referral to the Committee / Council	• Departure – Site outside of the settlement boundary. • Residential development which includes provision for 75 dwellings or more.

3.1 Proposal / brief overview, including any relevant background information

The site and surroundings

Amend typographical error in Paragraph 3.1.7 (Page 53) as follows:

3.1.7 The submitted planning application seeks outline planning permission for:

Outline planning application with all matters reserved except access for up to 150 dwellings (Class C3) including affordable homes, public open space, sustainable drainage systems, landscaping and associated development.

3.2 Planning Balance and Conclusion

Benefit

Amend typographical error in the second bullet point under 'Harm' considerations in Paragraph 3.2.9 (Page 56) by replacing the word "Southminster" with the words "Great Totham (south)".

5 MAIN CONSIDERATIONS

5.2 Principle of Development

Five-year Housing Land Supply (5YHLS)

Update to Paragraph 5.2.8 (Page 61) to reflect updated 5YHLS as follows:

- 5.2.8 The Council is required to provide annually updated housing supply calculations by NPPF Policy HO1 and Annex D. The Council's report published on 13/10/2026 established that on 1 April 2026, Maldon District Council (MDC) could demonstrate a Housing Land Supply (HLS) of 4.16 years. In addition, the report establishes an interim mid-year position for 1 October 2026 of 4.68 years. It is acknowledged that MDC cannot demonstrate a 5YHLS.

5.7 Design

Amend Paragraph 5.7.7 (Page 70) to fix incomplete sentence as follows:

- 5.7.7 The submitted DAS notes the 'Arcadian' nature of the local character and seeks to emulate this through setbacks from roads with low boundary treatments, lower densities near Site edges and substantial onsite green space and gaps between proposed houses.

5.11 Ecology and Biodiversity

Biodiversity Net Gain (BNG)

Amend Paragraph 5.11.4 (Page 75) to reflect the amended BNG Metric:

- 5.11.4 The application is supported by a BNG Assessment and Statutory Biodiversity Metric, which demonstrate that the development would result in a 68.47 per cent gain in hedgerow units and a 65.87 per cent gain in watercourse units; however, there would be an 11.98 per cent loss of habitat units which is currently land used for growing 'non cereal crops', which is defined as 'low distinctive' and 'low strategic significance' within standard BNG metric. This is not defined as a priority habitat, so no priority habitat would be lost as a result of the development. As such, the applicant is proposing to achieve the habitat gain through off-site biodiversity units through local Habitat Banks, which is an acceptable approach that is recognised within the guidance in the PPG on BNG.

Add the following after to the end of Paragraph 5.11.5 (Page 75):

The applicant has advised that they have engaged with the Environment Bank, who have offsite credits available at their local site in Heybridge. The 10 per cent net gain in habitat units would therefore be achieved within the district, which is the preferred offsite approach.

7 CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils (Page 83)

Amend the naming error in the first set of comments within the table underneath 7.1 to read "Great Totham Parish Council".

7.5 Representations received from Interested Parties (Page 99)

Add the following after Paragraph 7.5.1:

7.5.1A Following the committee report being published, nine further representations have been received, comprising eight objections and one supporting comment. No new matters have been raised in the supporting comments. New issues raised in the new objection comments are summarised below:

Objection Comment	Officer Response
There is no requirement for housing in this location because of significant developments taking place in Heybridge and Maldon.	The district is not able to demonstrate a 5YHLS. Each application must be assessed on its own merits.
Too much emphasis is placed on affordable housing when we live in such a small village.	Officers have given appropriate weight in accordance with the relevant policies of the development plan, including NPPF Policies S5, HO7 and HO8.
The boundary between Great Totham (south) and Heybridge is being blurred.	The application Site would not result in any significant visual impact on the relationship between Great Totham (south) and Heybridge.
Public representations should be properly verified and reviewed. There are similar and anomalous recent submissions. The apparent number of supporting representations should not be given weight unless the Council is satisfied that they represent genuine and independent submissions.	Weight is not given to the number of supporting or opposing comments received, but to the content within the representations which represents material planning considerations.

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