

APOLOGIES Committee Services
Email: Committee.clerk@maldon.gov.uk

DIRECTOR OF STRATEGY,
PERFORMANCE AND
GOVERNANCE
Paul Dodson

06 July 2021

Dear Councillor

You are summoned to attend the meeting of the;

NORTH WESTERN AREA PLANNING COMMITTEE

on **WEDNESDAY 14 JULY 2021 at 7.30 pm**

in the **Council Chamber. Maldon District Council Offices, Princes Road, Maldon.**

Please Note that due to social distancing and space limitations, we require any members of the public or press who wish to attend physically and observe or speak under Public Participation rules at this meeting to complete [a request form](#) (to be submitted by 12noon on the working day before the Committee meeting). This will be reviewed and managed according to capacity of the meeting and whether any other persons have already registered.

The Committee meeting will still be live streamed via the [Council's YouTube channel](#) for ease of viewing.

A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance

COMMITTEE MEMBERSHIP:

CHAIRMAN

Councillor Mrs M E Thompson

VICE-CHAIRMAN

Councillor J V Keyes

COUNCILLORS

M F L Durham, CC
Mrs J L Fleming, CC
K W Jarvis
C P Morley
R H Siddall
E L Stephens
Miss S White





AGENDA
NORTH WESTERN AREA PLANNING COMMITTEE

WEDNESDAY 14 JULY 2021

1. **Chairman's notices**

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 14)

To confirm the Minutes of the meeting of the Committee held on 16 June 2021 (copy enclosed).

4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, other Pecuniary Interests or Non-Pecuniary Interests relating to items of business on the agenda having regard to paragraphs 6-8 inclusive of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

5. **21/00104/FULM - Land West of Fambridge Road, North Fambridge** (Pages 15 - 50)

To consider the report of the Director of Service Delivery (copy enclosed, Members Update to be circulated)*.

6. **21/00415/FUL - Land North of Orchard Way, Mope Lane, Wickham Bishops** (Pages 51 - 74)

To consider the report of the Director of Service Delivery (copy enclosed, Members Update to be circulated)*.

7. **21/00594/FUL - Barns Adjacent To Mosklyns Farm, Chelmsford Road, Purleigh, Essex** (Pages 75 - 96)

To consider the report of the Director of Service Delivery (copy enclosed, Members Update to be circulated)*.

8. **Any other items of business that the Chairman of the Committee decides are urgent**

Note:

1. The Council operates a facility for public participation. This will operate only in relation to the consideration and determination of planning applications under Agenda Item Nos.5-7.
2. The Committee may consider representation from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to participate is afforded only to those having previously made written representation.
3. Anyone wishing to participate must register by completing [the online form](#) no later than noon on the working day before the Committee meeting.
4. For further information please see the Council's website – www.maldon.gov.uk/committees

* Please note the list of related Background Papers attached to this agenda.

NOTICES**Recording of Meeting**

Please note that the Council will be recording and publishing on the Council's website any part of this meeting held in open session. At the start of the meeting an announcement will be made about the recording.

Fire

In the event of a fire, a siren will sound. Please use the fire exits marked with the green running man. The fire assembly point is outside the main entrance to the Council Offices. Please gather there and await further instruction.

Health and Safety

Please be advised of the different levels of flooring within the Council Chamber. There are steps behind the main horseshoe as well as to the side of the room.

Closed-Circuit Televisions (CCTV)

Meetings held in the Council Chamber are being monitored and recorded by CCTV.

BACKGROUND PAPERS

The Background Papers listed below have been relied upon in the preparation of this report:

1. The current planning applications under consideration and related correspondence.
2. All third party representations and consultation replies received.
3. The following Statutory Plans and Supplementary Planning Guidance, together with relevant Government legislation, Circulars, Advice, Orders, Directions and Guidance:

Development Plans

- Maldon District Local Development Plan approved by the Secretary of State 21 July 2017
- Burnham-On-Crouch Neighbourhood Development Plan (2017)

Legislation

- The Town and Country Planning Act 1990 (as amended)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- The Planning and Compensation Act 1991
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Planning Act 2008
- The Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- The Town and Country Planning (Development Management Procedure) (England) Order 2010
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (Control of Advertisements) (England) Regs 2007
- The Town and Country Planning (Environmental Impact Assessment) Regs 2011
- Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012 (as amended)
- The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)
- Growth and Infrastructure Act 2013
- Housing and Planning Act 2016
- Neighbourhood Planning Act 2017
- The Town and Country Planning (Brownfield Land Register) Regulations 2017

Supplementary Planning Guidance and Other Advice

- i) Government policy and guidance
 - National Planning Policy Framework (NPPF) - 2018
 - Planning Practice Guidance (PPG)
 - Planning policy for Traveller sites - 2015
 - Relevant government circulars
 - Relevant Ministerial Statements (as referred to in the report)
 - Essex and South Suffolk Shoreline Management Plan – October 2010

Supplementary Planning Guidance and Other Advice (continued)

ii) Essex County Council

- Essex Design Guide 1997 (Note: superseded by Maldon District Design Guide 2018)
- Essex and Southend on Sea Waste Local Plan 2017
- Essex Minerals Local Plan 2014

iii) Maldon District Council

- Five Year Housing Land Supply Statement 2017 / 18
- Maldon District Design Guide – 2017
- Maldon and Heybridge Central Area Masterplan - 2017
- Infrastructure Delivery Plan (All versions, including update in Council's Hearing Statement)
- Infrastructure Phasing Plan (January 2015 and January 2017 update for Examination)
- North Heybridge Garden Suburb Strategic Masterplan Framework - 2014
- South Maldon Garden Suburb Strategic Masterplan Framework – 2014 (adapted as Supplementary Planning Document (SPD) 2018)
- Vehicle Parking Standards SPD - 2018
- Renewable and Low Carbon Technologies SPD – 2018
- Maldon District Specialist Housing SPD – 2018
- Affordable Housing and Viability SPD – 2018
- Accessibility to Buildings SPD – December 2006
- Children's Play Spaces SPD – March 2006
- Sadd's Wharf SPD – September 2007
- Heybridge Basin Timber Yard SPD – February 2007
- Developer Contributions Guide SPD - 2010
- Heybridge Basin Village Design Statement – 2007
- Wickham Bishops Village Design Statement – 2011
- Woodham Walter Village Design Statement – 2011
- Althorne Village Design Statement
- Woodham Walter Village Design Statement
- Various Conservation Area Appraisals

All Background Papers are available for inspection at the Maldon District Council Offices, Princes Road, Maldon, Essex CM9 5DL during normal office hours.

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**MINUTES of
NORTH WESTERN AREA PLANNING COMMITTEE
16 JUNE 2021**

PRESENT

Chairman	Councillor Mrs M E Thompson
Councillors	M F L Durham, CC, Mrs J L Fleming, CC, C P Morley, R H Siddall, E L Stephens and Miss S White
In attendance	Councillor C Morris

107. CHAIRMAN'S NOTICES

The Chairman welcomed everyone present and went through some general housekeeping arrangements for the meeting.

108. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors K W Jarvis and J V Keyes.

109. MINUTES OF THE LAST MEETING

RESOLVED by assent that the Minutes of the meeting of the Committee held on 25 May 2021 be approved and confirmed.

110. DISCLOSURE OF INTEREST

Councillor M F L Durham declared a non-pecuniary interest as a Member of Essex County Council, a statutory consultee on all planning related matters.

Councillor Mrs J L Fleming declared a non-pecuniary interest as a Member of Essex County Council, a statutory consultee on all planning related matters.

111. 20/00428/FUL - LAND OPPOSITE 34 HALL ROAD, GREAT TOTHAM

Application Number	20/00428/FUL
Location	Land Opposite 34 Hall Road, Great Totham
Proposal	Erection of 30 dwellings with associated access and landscaping.
Applicant	Lynton Homes Limited
Agent	Mr Russell Forde - Smart Planning Ltd
Target Decision Date	19.08.2020 EOT 25.09.2020
Case Officer	Hannah Bowles
Parish	GREAT TOTHAM
Reason for Referral to the Committee / Council	Major Application Departure from the Local Plan

A Members' Update had been circulated prior to the meeting that detailed an additional letter of objection together with amendments to recommended conditions. The Officer then verbally confirmed receipt of agreement to the pre-commencement conditions outlined under the 'Officer Note' on the Members' Update.

Following the Officer's presentation, an Objector, Ms Sophie Brownsell, and the Agent, Mr Russell Forde, addressed the Committee.

A debate ensued where Members raised a number of concerns including poor design; materials to be used; potential contamination; adverse impact on amenity space and possible adverse effects on the intrinsic character and beauty of the area.

The Lead Specialist Place, addressing some of the issues raised, noted that the design and materials were standard across the district. That the issue of contamination had been covered through reports from both Environmental Health and the Environment Agency and appropriate conditions put in place. Taking into account the presumption in favour of sustainable development known as the 'Tilted Balance' he advised there was a need to demonstrate that the harm from the development was very high and outweighed any benefits bearing in mind the Inspector had already found this application acceptable when the authority had a Five Year Housing Land Supply (5YHLS).

Further discussion by Members acknowledged that whilst the development was not perfect in all aspects there was an appeal in favour of the development in March 2017 and given the current lack of a 5YHLS there was no real alternative but to approve.

There being no further discussion the Chairman moved the Officer's recommendation to approve the application together with the amended conditions outlined in the Members' Update. This was seconded by Councillor Morley.

The Chairman then put the recommendation to the Committee and it was agreed.

RESOLVED that the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with approved drawings 19.7013/M001, 19.7013/E101, 19.7013/P201G, 19.7013/P202, 19.7013/P203, 19.7013/M002, 19.7013/P204, 19.7013/P235, 19.7013/P234, 19.7013/P229, 19.7013/P225, 19.7013/P224, 19.7013/P223, 19.7013/P222, 19.7013/P240, 19.7013/P239, 19.7013/P237, 19.7013/P236,

19.7013/P233, 19.7013/P232, 19.7013/P231, 19.7013/P230, 19.7013/P228, 19.7013/P227, 19.7013/P226, 19.7013/P221, 19.7013/P219, 19.7013/P217, 19.7013/P215, 19.7013/P213 Rev B, 19.7013/P211, 19.7013/P209, 19.7013/P207, 19.7013/P205, 19.7013/P220, 19.7013/P218, 19.7013/P216, 19.7013/P214, 19.7013/P212 Rev A, 19.7013/P210, 19.7013/P208, 19.7013/P206, 20.053/LA01 Rev C, 20.053/LA02 Rev C, 200107/1 REV A, 200107/2 REV A and 20.053/HW01 Rev A.

3. The development shall be implemented in accordance with the details of external finishing materials set out within the document titled Schedule of Materials and shall be retained as such in perpetuity.
4. The development shall be implemented in accordance with the boundary treatment details included on plan references 20.053/LA01 Rev C and 20.053/LA02 Rev C and be retained as such in perpetuity.
5. The development shall be implemented in accordance with the hard landscaping details included on plan references 20.053/LA01 Rev C and 20.053/LA02 Rev C and be retained as such in perpetuity.
6. Full details of the provision and subsequent retention of the soft landscape works on the site shall be submitted to and approved in writing by the local planning authority prior to any works occurring above ground level at the application site. These details shall include:
 - 1) Details of proposed schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers/densities.
 - 2) Details of the planting scheme implementation programme, including ground protection and preparation, weed clearance, stock sizes, seeding rates, planting methods, mulching, plant protection, staking and/or other support.
 - 3) Details of the aftercare and maintenance programme.

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of any part of the development hereby approved unless otherwise agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.
7. The approved arboricultural method statement prepared by Writtle Forest Consultancy dated April 2020 and the Tree Protection Plan reference 200107/2 Rev A submitted in support of the application shall be adhered to in full, subject to the pre-arranged supervision detailed in section 3 of the statement, by a suitably qualified and pre-appointed tree specialist. Further, written evidence of contemporaneous supervision and monitoring of the tree protection throughout construction by a suitably qualified and pre-appointed tree specialist shall be submitted to the local planning authority upon completion of the development.
8. The first floor window on the west elevation of the dwelling which shall occupy plot 14 shall only be glazed in obscure glass (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing with the local planning authority) and fixed shut, except for any top hung fan light which shall be a minimum of 1.7 metres above internal floor

- level unless otherwise agreed in writing by the local planning authority. In the case of multiple or double glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4.
9. No development above ground level shall take place, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and underbody washing facilities
 10. Prior to occupation of the development, the proposed site access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 60 metres in both directions on Hall Road, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.
 11. Prior to first occupation of the development, highway works as shown in principle in the Proposed Site Plan shall be implemented to include, but not be limited to, the following:
 - The widening and construction of Hall Road to a width of 5 metres, from a point approximately outside 22 Hall Road to the site access, and then tapering back down to align with the original carriageway;
 - A 2m footway on the southern side of Hall Road extending from a point approximately outside 22 Hall Road to a point approximately 20m west of the proposed site access road, to connect with the proposed footway into the site;
 - two dropped kerbs with appropriate tactile paving across Hall Road to connect the two footways above;
 - A bellmouth access into the development with minimum radii of 6m and including two dropped kerbs with appropriate tactile.
 12. Cycle parking shall be provided in accordance with Maldon District Council's Parking Standards. The approved facilities shall be secure, convenient, covered and provided prior to occupation of the development and retained as such thereafter.
 13. No development above ground level shall occur until details of the development details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
 14. No development shall take place until a final detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
 - 1) Limiting discharge rates to no more than 2.1l/s for all storm events up to and including the 1 in 100 year plus 40% allowance for climate change storm event. All relevant permissions to discharge from the site into any outfall should be demonstrated.

- 2) Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
 - 3) Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
 - 4) Final modelling and calculations for all areas of the drainage system.
 - 5) The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
 - 6) Detailed engineering drawings of each component of the drainage scheme.
 - 7) A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
 - 8) A written report summarising the final strategy and highlighting any minor changes to the approved strategy.
15. No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.
 16. Prior to occupation of the development hereby approved a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.
 17. The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.
 18. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Phase 1 Habitat Survey (DF Clark 2016), the Ecological Survey Update (DF Clarke 2018), and the Reptile Translocation Report (DF Clark 2019) as submitted with the planning application.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.”
 19. Prior to any works above slab level a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:
 - a) Purpose and conservation objectives for the proposed enhancement measures;
 - b) detailed designs to achieve stated objectives;

- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

20. Prior to the first occupation of the development hereby approved a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme.

21. No development shall take place, other than that required to enable remediation, until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved by the local planning authority in writing.

The measures set out in the remediation scheme shall be implemented prior to commencement where possible. Where remediation measures are incorporated into the wider development and cannot be completed prior to commencement they shall be highlighted in the remediation scheme submitted for approval.

The scheme will remove unacceptable risks to human health, buildings and other property and the natural and historical environment. It must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

This shall be conducted in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the Environment Agency's 'Land Contamination Risk Management' guidance.

22. The measures set out in the remediation scheme shall be implemented in full.

Following completion of measures identified in the remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted to the local planning authority within 28 days. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

This shall be conducted in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for

Applicants and Developers' and the Environment Agency's 'Land Contamination Risk Management' guidance."

23. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
24. No drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.
25. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

The Chairman thanked those present for their attendance and there being no other items of business closed the meeting at 8.12 pm.

MRS M E THOMPSON
CHAIRMAN

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
14 JULY 2021**

Application Number	21/00104/FULM
Location	Land West of Fambridge Road, North Fambridge
Proposal	12No. dwellings with associated details for access, appearance, landscaping, layout and scale.
Applicant	BDW Eastern Counties - BDW Eastern Counties
Agent	N/A
Target Decision Date	05.05.2021 – EOT until 19.07.2021
Case Officer	Julia Sargeant
Parish	NORTH FAMBRIDGE
Reason for Referral to the Committee / Council	Major Application

1. RECOMMENDATION

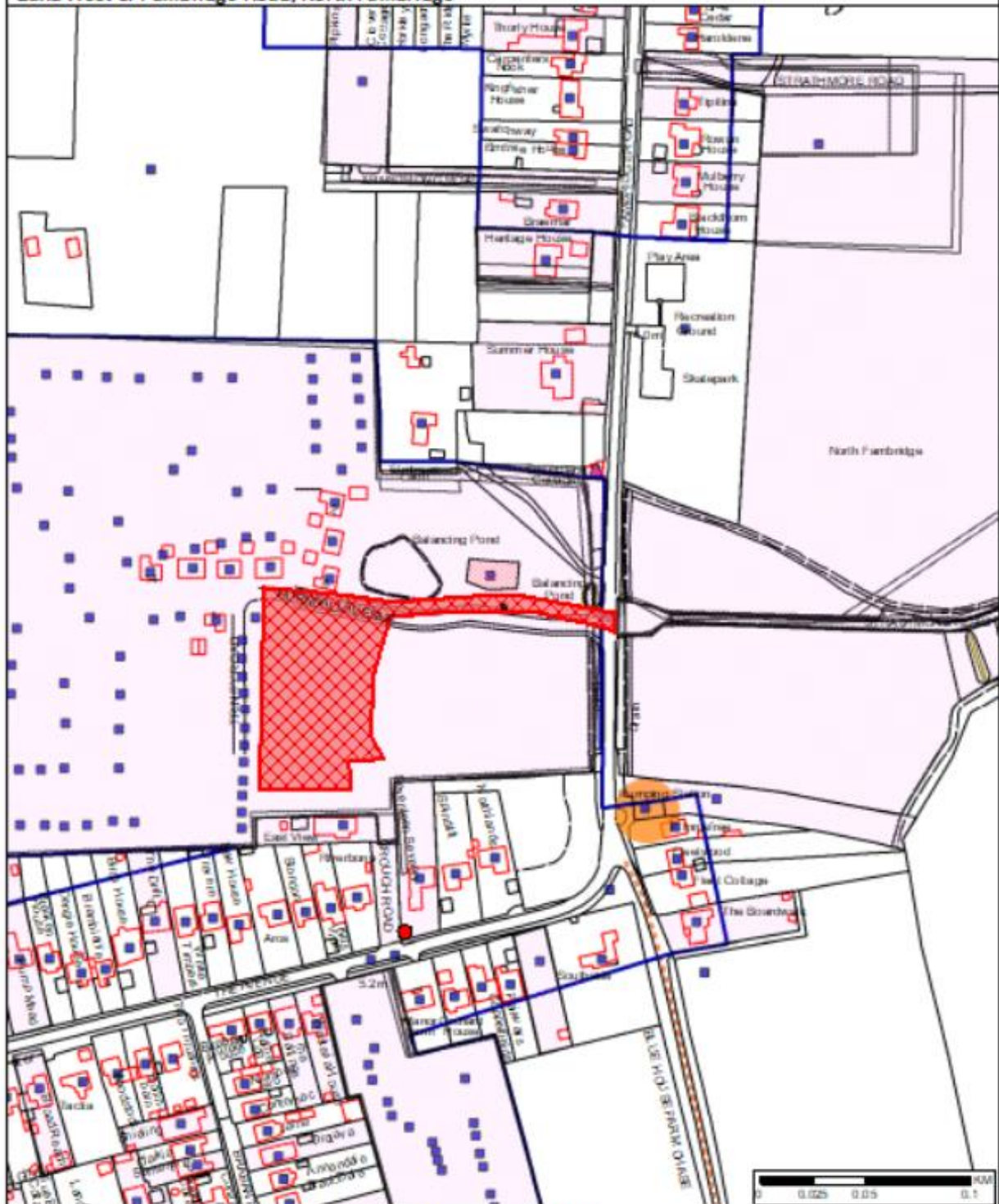
APPROVE subject to the applicant entering into a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the planning obligations and subject to conditions as detailed in Section 8.

2. SITE MAP

Please see below.

21/00104/FULM

Land West of Fambridge Road, North Fambridge



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Maldon District Council 100018588 2014



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Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: Not Set

Date: 13/06/2021

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Site Description

- 3.1.1 The application site is located to the east of Fambridge Road and within the settlement boundary of North Fambridge. The site itself forms part of a larger development site which had outline consent granted under reference 14/01016/OUT for up to 75 dwellings and up to 1,000 sq m of flexible commercial and community space. Reserved matters consent was granted under 19/00252/RES for the 75 dwellings and the development is currently under construction. This application site relates to the parcel of the larger site where the 1,000 sq m of flexible commercial and community space was granted consent.
- 3.1.2 The site itself is approximately 0.54 hectares in size and roughly rectangular in shape. The application site sits approximately 110 metres back from Fambridge Road to the west of an area of public open space provided as part of the larger development and to the east of residential dwellings under construction. It is currently being used as the construction compound for the larger element of the site.

Relevant Background

- 3.1.3 This application follows the withdrawal of a previous planning application on the site (20/00787/FUL) which was for 10 dwellings. A number of concerns were raised in relation to the scheme with the applicant which primarily related to:
- Lack of affordable housing provision;
 - Density of the development and making the most effective use of the land;
 - Appearance and design of some plots, and
 - Details of marketing undertaken.
- 3.1.4 This application follows the previously withdrawn application and seeks to address the previous concerns raised with the scheme in the following ways:
- Provision of 42% affordable housing;
 - Increased density of development from 22.9dph to 27.9dph;
 - Amendment to the design of dwellings and most notably the corner plots facing east across the public open space towards Fambridge Road.
 - Additional clarification on elements of the marketing undertaken.

Proposal

- 3.1.5 Planning permission is sought for the erection of 12 dwellings with associated access, appearance, landscaping, layout and scale. This is a Full application with all details submitted. The development proposes 5 units of affordable housing (41%) and 7 units of market housing. The dwellings proposed would all be positioned centrally within the plot with access taken for those facing south and west from the already approved access road and access for those facing east from a new private drive. One plot (plot 107) would take access directly from the already approved main spine road into the development.

3.1.6 The following house types are proposed:

3.1.7 Plots 106, 111 and 112 (market housing)

(please note plot numbers for this application start at 106 as the applicant is currently constructing 75 dwellings on this wider site and 30 dwellings on a neighbouring site known as Manor Farm, The Avenue granted consent under 14/01018/OUT and 18/00558/RES).

Plots 106, 111 and 112 are semi detached dwellings of a traditional form and appearance plots 111 and 112 would be finished in render with brick plinths and detailing, whilst plot 106 would be finished in buff/yellow brick. They form corner plots within the site and feature ground floor bay windows to the flank elevation to ensure an appropriate level of detailing to both the front elevation and side elevation. Plot 106 is located in the north western corner of the site and would front onto the access road to the west with the bay window detailed flank elevation facing the main spine road through the site. It would adjoin a different house type (plot 107 detailed later) and would be set back from the main spine road with an area of landscaping and pedestrian footway to the front of this elevation. Plots 111 and 112 are located in the south eastern corner of the site and adjoin each other forming one end of the main street scene facing out towards Fambridge Road across the public open space. Whilst the main front elevations would face north and south across the access roads the secondary frontages with bay window detailing would face out across the public open space towards Fambridge Road.

Each dwelling would measure 9.1 metres wide by 6 metres deep with an eaves height of 4.8 metres and a ridge height of 8.2 metres. Internally the dwellings would contain a lounge, open plan kitchen/diner and utility at ground floor level with two bedrooms, one with en-suite, family bathroom and study at first floor level.

Each dwelling would have the following size private amenity space and parking provision:-

Plot No.	Private Amenity Space	Parking Spaces
Plot 106	83 metres squared	2 spaces
Plot 111	80 metres squared	2 spaces
Plot 112	55 metres squared	2 spaces

3.1.8 Plot 107 (market housing)

Plot 107 is a semi-detached buff/yellow brick dwelling which would be attached to plot 106 along its western flank boundary. The dwelling is of a traditional design and would measure 4.5 metres wide by 7.9 metres deep with an eaves height of 4.7 metres and a ridge height of 7.4 metres. Internally the dwelling would contain a kitchen, w.c. and open plan lounge/diner at ground floor level and two bedrooms and a bathroom at first floor level.

This dwelling would have the following size private amenity space and parking provision:

Plot No.	Private Amenity Space	Parking Spaces
Plot 107	64 metres squared	2 spaces

3.1.9 Plot 108 (market housing)

Plot 108 is a detached two storey double fronted rendered dwelling with brick detailing. It has a traditional appearance with a bay window to the front elevation and a two storey gable projection to the rear. The dwelling would measure a maximum of 10.5 metres wide by 6.8 metres deep for the main section with the rear projection measuring a further 3.6 metres in depth. The eaves height of the property would be 5.1 metres with a maximum ridge height of 8.7 metres. Internally the dwelling would accommodate a lounge, breakfast/kitchen room, utility, dining room, study and w.c. at ground floor level and four bedrooms, one with en-suite along with a family bathroom at first floor level.

Plot 108 is a corner plot located into the north eastern section of the site fronting onto the public open space to the east and across to Fambridge Road.

This dwelling would have the following size private amenity space and parking provision:

Plot No.	Private Amenity Space	Parking Spaces
Plot 108	120 metres squared	3 spaces

3.1.10 Plot 109 (market housing)

Plot 109 is a detached two storey red brick built dwelling which would feature a front two storey gable projection as well as a bay window and a small single storey glazed rear projection. The dwelling would measure a maximum of 8.7 metres wide by 10 metres deep with an eaves height of 4.9 metres and a maximum ridge height of 8.6 metres. Internally the dwelling would accommodate a lounge, kitchen/diner, utility room, study and w.c. at ground floor level and four bedrooms, one with en-suite along with a family bathroom at first floor level.

Plot 109 is located along the eastern boundary of the plot fronting onto the public open space to the east and across to Fambridge Road.

This dwelling would have the following size private amenity space and parking provision:

Plot No.	Private Amenity Space	Parking Spaces
Plot 109	100 metres squared	3 spaces

3.1.11 Plot 110 (market housing)

Plot 110 is a detached two storey buff/yellow brick built dwelling with a first front gable feature central to the property creating a semi-enclosed porch area. The property would also feature a small single storey glazed rear projection. The dwelling would measure 11.2 metres wide by a maximum of 10.1 metres deep with an eaves height of 5 metres and a ridge height of 8.3 metres. Internally the dwelling would accommodate a lounge, kitchen/breakfast room, utility, dining room, study and w.c. at ground floor level and four bedrooms, two with en-suites as well as a family bathroom at first floor level.

Plot 110 is located along the eastern boundary of the plot fronting onto the public open space to the east and across to Fambridge Road.

This dwelling would have the following size private amenity space and parking provision:

Plot No.	Private Amenity Space	Parking Spaces
Plot 110	230 metres squared	4 spaces

3.1.12 Plots 113 and 114 (affordable housing)

Plots 113 and 114 comprise of a pair of handed semi-detached dwellings finished in red brick with front canopy projections. Each dwelling would measure 4.8 metres wide by 8.8 metres deep with an eaves height of 4.8 metres and a ridge height of 8.2 metres. Internally each dwelling would contain an open plan kitchen/diner/lounge area as well as a w.c. at ground floor level with two bedrooms and a bathroom at first floor level.

Plots 113 and 114 are located along the southern boundary of the site with a small area of open space beyond the internal access road.

These dwellings would have the following size private amenity space and parking provision:

Plot No.	Private Amenity Space	Parking Spaces
Plot 113	80 metres squared	2 spaces
Plot 114	60 metres squared	2 spaces

3.1.13 Plots 115 and 116 (affordable housing)

Plots 115 and 116 comprise of a pair of flats designed to look like a two storey dwelling. The building would be constructed out of red brick with a single storey projection to the south. The property would be located on the south western corner of the site and access to the ground floor flat would be taken from the west facing elevation which would appear as a double fronted traditional dwelling and access to the first floor flat would be taken from the south facing elevation which would appear as a two storey gable ended dwelling. The property would therefore serve as a dual frontage property within its corner position. The overall building would measure 8.8 metres wide (10 metres including the single storey projection) by 6.2 metres deep with an eaves height of 5.1 metres and ridge height of 8.6 metres. Each flat would contain an open plan kitchen/diner/living room, bathroom and bedroom.

The flats would have a shared amenity space of 105 metres squared with one parking space per unit.

3.1.14 Plot 117 (affordable housing)

Plot 117 is a flat over garage unit designed to appear as a cartlodge. It would be constructed out of red brick and would feature a drive through car port section to allow access to the car port area from the rear with dummy windows at ground floor level to the front. The drive through car port access would also be used by plot 106 to access their off road parking spaces. The residential accommodation would all be at first floor level with access taken from the front west facing elevation.

The building would measure a maximum of 11.4 metres wide by 6 metres deep with an eaves height of 4.8 metres and a ridge height of 7.2 metres. Internally the unit would provide a kitchen, lounge/diner, bathroom and two bedrooms.

This unit would have the following size private amenity space and parking provision:

Plot No.	Private Amenity Space	Parking Spaces
Plot 117	75 metres squared	2 spaces

3.1.15 External materials for the development have been provided which would be as follows:

- Brick - Red Multi – Ibstock Surrey Red
- Brick – Yellow- Forterra Village Harvest Multi
- Tile – Grey Plain Tile – Redland Richmond 10/Forticrete Mixed Russet
- Tile – Red Plain Tile – Forticrete Mixed Russet
- Render – Weber Monocucche Chalk
- Facia and Soffit – White uPVC
- Rainwater Goods – Black uPVC
- Front Doors – Black
- Garage Doors – Black
- Windows – White uPVC

3.2 Conclusion

3.2.1 This application relates to a parcel of land that is within a wider development site granted under 14/01016/OUT and is currently being built out pursuant to reserved matters approval 19/00252/RES. The application site itself has the principle of up to 1,000 sq m of commercial/community use approved under 14/01016/OUT. The applicants have marketed the site for the commercial/community use and the exercise and results have been captured in a Marketing Appraisal Report. The report concludes that over a three year period there was no viable or serious interest in the site, and that the size and nature of the area could not sustain viable options. This application would therefore result in the loss of the potential commercial/community use and the erection of 12 residential units, 5 of which would be affordable housing. The application site is considered to be within a reasonably sustainable location in terms of access to services and facilities due to the good rail connection at North Farnbridge, and the development of the site for 12 residential units would assist in making up the deficit in the Five Year Housing Land Supply (5YHLS). Whilst it is acknowledged that reserved matters for the commercial/community use have not been granted, for the reasons explained below, it is considered, on balance, that there are no objections to the principle of the development.

3.2.2 The design approach taken is considered to be appropriate to the site and would result in a seamless addition to the wider development with additional soft landscaping proposed. The development provides adequate off road parking, meets amenity spaces standards and would not result in any materially harmful impacts to neighbouring residents amenity.

3.2.3 Overall it is considered that the benefits of the proposed development outweigh any harm and the proposal would represent sustainable development. Therefore, in accordance with the Local Development Plan (LDP) and the National Planning Policy Framework (NPPF) the application is recommended for approval subject to a S106 agreement to secure the affordable housing and Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) payment along with conditions as detailed in section 8 of this report.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2019 including paragraphs:

- 7 Achieving sustainable development
- 8 Three objectives of sustainable development
- 10-12 The presumption in favour of sustainable development

- 38 Decision making
- 47-50 Determining applications
- 54-57 Planning conditions and obligations
- 59-66 Delivering a sufficient supply of homes
- 91-101 Promoting healthy and safe communities
- 102-111 Promoting sustainable transport
- 117-123 Making effective use of land
- 124-132 Achieving well-designed places
- 148-169 Meeting the challenge of climate change, flooding and coastal change
- 170-183 Conserving and enhancing the natural environment
- 184-202 Conserving and enhancing the historic environment

4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:

- S1 Sustainable Development
- S2 Strategic Growth
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Change
- E1 Employment
- E3 Community Services and Facilities
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity
- N3 Open Space, Sport and Leisure
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Vehicle Parking Standards (VPS) SPD
- Maldon District Design Guide (MDDG) SPD
- Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) SPD

4.4 Necessary Associated Infrastructure Improvements Required and/or Affordable Housing

- Affordable Housing
- Financial Contribution towards RAMS

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.
- 5.1.2 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five Year Housing Land Supply (5YHLS). At present the Council can currently identify a 3.26 years supply of housing land.
- 5.1.3 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the 'Tilted Balance'. This position is set out in paragraph 11d, together with its footnote 7, of the NPPF which states:

“For decision taking this means:

“(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

“(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

“(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

Footnote 7 - 7 This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73).

- 5.1.4 At the heart of the NPPF is a presumption in favour of sustainable development (the 'presumption') which is central to the policy approach in the Framework, as it sets out the Government's policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces those Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37).
- 5.1.5 It is necessary to assess whether the proposed development is 'sustainable development' as defined in the NPPF. If the site is considered sustainable then the NPPF's 'presumption in favour of sustainable development' applies. However, where the development plan is 'absent, silent or relevant policies are out of date', planning permission should be granted 'unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the

policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted’.

- 5.1.6 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.
- 5.1.7 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 re-iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be ‘sustainable development’ through the three dimension tests of the NPPF, the LPA are obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme.
- 5.1.8 Paragraph 78 of the NPPF states that:
- ‘To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.’*
- 5.1.9 Government advice currently states that all sites should be examined in order to determine their potential for redevelopment for residential purposes. The proposed development would be constructed on a site that currently has outline permission for 1,000sqm of commercial/community uses and is also located within the settlement boundary of North Fambridge. Whilst North Fambridge has very limited services and facilities within the settlement (village hall, playing fields and nursery) it does benefit from a train station which is situated approximately 350 metres to the north of the application site. This train station offers hourly services from approximately 6 am until 11pm towards London (and also links more locally to South Woodham Ferrers and other localities).
- 5.1.10 It is therefore, considered that the principle of residential accommodation on this site is acceptable subject to compliance with other appropriate policies as considered below. It should be noted that this approach is consistent with decisions and appeals that were determined within the settlement of North Fambridge last time the Council did not have a 5YHLS. Furthermore, there has been an appeal allowed for a new dwelling outside of the settlement boundary of North Fambridge in 2019 when the Council was able to demonstrate a 5YHLS (reference OUT/MAL/18/00428) and whilst there were application specific material considerations in relation to this decision the Inspector did make the following comments in relation to locational sustainability:

“Whilst in policy terms the appeal site falls outside of the defined limits of North Fambridge, visually it appears to sit comfortably within the built limits of the village. Its close proximity to local services and transport links also makes it a reasonably sustainable location, which is part of the reasoning behind Policies S1, S2 and S8.”

- 5.1.11 In light of the above assessment it is therefore considered that the principle of residential development on this site is acceptable subject to compliance with other appropriate policies as considered below.

5.2 Loss of Commercial/Community Use

- 5.2.1 The application site relates to land that already benefits from outline planning consent under reference 14/01016/OUT for up to 1,000 sq m of flexible commercial and community space. This proposal would replace the 1,000 sq m of flexible commercial and community space with 12 residential dwellings and therefore LDP policies E1 and E3 are directly relevant to the consideration of this application.
- 5.2.2 LDP Policy E1 seeks to encourage employment generating developments and protect existing employment uses unless certain criteria are met. The policy states: *“Proposals which will cause any loss of existing employment uses, whether the sites are designated or undesignated, will only be considered if:*
- 1) The present use and activity on site significantly harms the character and amenity of the adjacent area; or*
 - 2) The site would have a greater benefit to the local community if an alternative use were permitted; or*
 - 3) The site has been marketed effectively at a rate which is comparable to local market value for its existing use, or as redevelopment opportunity for other Class B uses or Sui Generis Uses of an employment nature, and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site’s existing and potential long-term market demand for an employment use.”*
- 5.2.3 LDP Policy E3 recognises that the District’s community services and facilities form an important component of urban and rural life in the District and that land and facilities providing community services are often under threat from proposals for alternative uses such as residential. The policy states: *“Where a proposal will result in the loss of community services or facilities an application will be required to demonstrate to the Council’s satisfaction that:*
- 1) The existing business/service is not and cannot be made viable; and*
 - 2) Effective marketing has been undertaken to demonstrate that there is no viable and appropriate alternative community service based use.”*
- 5.2.4 Whilst there is no physical existing employment or community use on the site this application would result in the erection of residential dwellings on land that had previously been granted consent for up to 1,000 sq m flexible commercial and community space as part of a larger development and it is therefore considered that policies E1 and E3 should be applied (in so far as they relate as there is no actual existing business or community use).
- 5.2.5 This current application has been supported by a marketing appraisal report dated 15 January 2021. This marketing report details the marketing campaign that has been undertaken in respect of the application site and the potential commercial/community uses consented under 14/01016/OUT. The report identifies the following:
- Marketing commenced in June 2017 and has continued in excess of 3 years.
 - Adverts have appeared in Essex Chronicle and Maldon and Burnham Standards.
 - Online marketing has taken place through a number of national commercial property websites (and site is still visibly marketed online at time of writing report).
 - Sales particulars were sent out in specific mail shots.

- Interest was sought from convenience store operators such as COOP and Nisa however the location of the proposed scheme was rejected due to their own understandings that the immediate population was too small to support their demographics.
- Further expressions of interest received over the years however none have progressed beyond expressions of interest or been viable propositions.

5.2.6 The marketing report submitted considers that: *“there is no sufficient appetite from local businesses and the current level of commercial space availability within the locality clearly does not support the need for further stock to be built in this location.”* Concluding *“current Government imposed restrictions of use due to effects of the Covid-19 pandemic are still having a negative affect on non retail establishments and retail outlets alike which is having a greater negative impact on current and very likely future demand for such uses.”*

5.2.7 The Council does not have a specific policy that relates to applications such as this. Policy E1 relates to encouragement of employment generating development and looks to support the long term growth. However, the general thrust of Policy E1 and sound planning judgement can be used to assess the application.

The Applicant has provided marketing that has been undertaken; it is considered to be comprehensive and of a significant duration, which would allow for any short-term fluctuations. The details submitted show there has been no viable interest in the site. Marketing has been undertaken for both freehold and leasehold interests. Whilst no price was shown on the marketing this was because the price would be dependent upon what the interested party would need to have developed on the site (size and specification). There has not been any level of interest shown in the property which advanced to the specific stage of product. It is noted that it would have been preferable to see marketing having been undertaken with at least a baseline land value shown (taking development values of similar sites for comparison), however it is considered that given the length of marketing undertaken, and the fact that any viable interest could have been progressed that overall the marketing that has been undertaken is sufficient to comply with LDP Policy E1 criterion 3.

The marketing undertaken has been considered acceptable in this instance as the application site is not a formally allocated employment site and no evidence was submitted with the original outline submission detailing the demand for the community/commercial uses. Furthermore, given the small scale of North Fambridge and the lack of passing trade it is considered that the demand for such commercial or community units would be lower than in other settlements within the District.

5.2.8 Notwithstanding the above, it must be noted that Policy E1 did not direct any form of commercial development to North Fambridge or generally through windfall developments and therefore, there was no evidence at the time of granting planning permission that there was a need for the space. Whilst, it is noted that no reserved matters applications have been submitted with the flexible approach to the application it is considered that it would be difficult to look to achieve a flexible development that would then be fit for purpose with an unknown proposed use.

On the basis of the above assessment it is considered that the marketing that has been undertaken in respect of the consented up to 1,000 sq m of flexible commercial and community space has been sufficient. Furthermore, the development would result in 12 additional residential dwellings on a site within the North Fambridge settlement boundary, within a reasonably sustainable location, which may otherwise be left vacant. It is therefore considered that there is no objection to the loss of the commercial/community use to the site.

5.3 Affordable Housing

- 5.3.1 This application is proposing the provision of 12 dwellings which triggers the requirements for Affordable Housing under Policy H1 of the Maldon District Approved Local Development Plan (MDLDP) 2014 - 2029.
- 5.3.2 The proposal triggers the 40% affordable housing requirement under policy H1 of the LDP. The affordable housing requirement on 12 units at 40% is 4.8 units. The scheme proposes that 5 of the 12 dwellings would be affordable dwellings which is a provision of 42% affordable housing. The five units would comprise of the following:
- 2 x 1 bedroom 2 person flats
 - 2 x 2 bedroom 4 person houses
 - 1 x 2 3 person bedroom flat
 - 3 units for affordable rent (2 x 1 bedroom 2 person flats and 1 x 2 bedroom 4 person dwelling)
 - 2 units for shared ownership (1 x 2 bedroom 3 person flat and 1 x 2 bedroom 4 person dwelling)
- 5.3.3 Strategic Housing have been consulted on this application and have advised that they support the application as the proposal is meeting the required number of affordable properties on the site as per Policy H1. Strategic Housing have also confirmed that the overall floor area and size of the affordable housing units proposed are acceptable as they meet Housing Quality Indicators (HQI) Standards in relation to unit sizes. HQI standards relate to 10 indicators that measure the quality of an affordable housing scheme. In relation to this development strategic housing contacted the Registered Social Landlord for the wider site who have confirmed that the units proposed are acceptable and would meet their requirements. The affordable housing units will be secured through a Section 106 legal agreement which the agent has confirmed is acceptable.

5.4 Housing Mix

- 5.4.1 The NPPF is clear that housing should be provided to meet an identified need as set out in Paragraph 60 which states 'To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.'
- 5.4.2 LDP policy H2 on housing mix requires all development *"to provide a suitable mix and range of housing in terms of size, type and tenure to reflect local housing need and demand in both the market and affordable section, particularly for the ageing population"*. The Strategic Housing Market Assessment (SHMA) provides the evidence base to the policy. Paragraph 61 of the NPPF states that *'the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies...'*
- 5.4.3 The Council's updated SHMA, published in 2014, identifies that for all housing types one- and two-bedroom units are required to balance the District's housing stock, which currently provides an unbalanced number of large dwellings. The required ratio is for 60% of new housing to be for one or two-bedroom units and 40% for three bedrooms plus units.

5.4.4 The clarification to policy H2 details that ‘An appropriate mix of housing in new developments will help to enable a better flow of the existing housing stock. The Council will require new development to incorporate a range of different housing types which contribute towards meeting the identified housing needs for different demographic groups in the District. As recommended by the latest SHMA update, the Council will encourage a greater proportion of one- and two-bedroom properties to be developed to meet the demand for owner occupied and intermediate housing in the District.’

5.4.5 The applicant submits that the current application proposes the following overall housing mix:

- 3 x 4 bedroom units
- 7 x 2 bedroom units
- 2 x 1 bedroom units

5.4.6 The overall housing mix can be broken down as below in relation to market and affordable units:

	Market Housing	Affordable Housing	Total
1 bedroom unit		2	2
2 bedroom unit	4	3	7
4 bedroom unit	3		3
Total	7 units	5 units	12 units

5.4.7 The above mix would result in 60% of the units being smaller 1 and 2 bedroom properties and 40% larger 4 bedroom properties which is compliant with LDP Policy H2 and the SHMA. However, it should be noted that 3 of the 2 bedroom units (the market housing) contain a first floor study which would measure approximately 6 metres squared. This is below the standards set within the Technical housing standards – nationally described space standards to function as bedroom which is 7.5 metres squared for a single bedroom. It is acknowledged that the Council does not have a policy in relation to room sizes and has not adopted the Technical housing standards, however they are incorporated into a number of Supplementary Planning Documents (SPD's) such as the Affordable Housing and Viability SPD as well as the MDDG and are therefore relevant to the consideration of this application.

5.4.8 The applicant has advised that “Due to changes in the way we all work largely as a result of the Covid pandemic, we have sought to actively respond to market demand alongside comments made by other LPAs. DWH have witnessed a step change in prospective purchasers’ expectations of what a house should provide and this includes the ability to work flexibly from home. With regard to the Hadley house type, we have sought to be agile in our response to this demand which is why an office/study is being proposed on the first floor. By offering the room for this use, it opens up this 1,000sqft house type to a growing market sector who aspire to a home with a separate utility room, a master bedroom with en suite, a second double bedroom and then a separate room in which to work.

In this room we are proposing to provide additional ‘superfast’ fibre connection points and sockets to allow for a desk with multiple inputs to be set up. We are therefore purposefully setting the room up to be marketed and used as a study rather than a bedroom - which is entirely consistent with Government guidance and public demand.”

5.4.9 It is therefore considered that whilst it would not be possible or reasonable to restrict the use of this room to office/study purposes through a planning condition, they are

still 2 bedroom units as the additional room does not meet the technical standards for a third bedroom, although it is acknowledged that they may be used for that purpose. Even if the units were considered as 3 bedroom units the resulting overall housing mix would be 50 % larger 3 and 4 bedroom units and 50% smaller 1 and 2 bedroom units and would, on balance, be considered acceptable taking all material considerations into account.

- 5.4.10 Therefore, when considering the development as a whole, it would meet the Council's identified needs in relation to housing mix and would support the provision of mixed and balanced communities as required by the NPPF.

5.5 Design and Impact on the Character of the Area

- 5.5.1 Part of the environmental role of sustainable development as referred to in the NPPF, is that the planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF.
- 5.5.2 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context. Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.5.3 The application site is located within the settlement boundary of North Farnbridge and forms part of a larger development site where 75 dwellings are currently under construction. The erection of 12 residential dwellings on the site would therefore be viewed within the wider setting of the already consented residential development and would not appear out of character or result in any material harm to the wider setting of the site. The application site has already had outline consent granted for up to 1000 sq m of commercial/community use and the principle of built form on the site has been established.
- 5.5.4 The overall design of the dwellings are considered to be acceptable and would be commensurate in form and appearance to the wider development within which they are situated, and would be viewed. All dwellings located on corner plots have been designed with appropriate articulation and detailing to ensure interest to both street scene elevations. Plots 108 and 111/112 (which are located at either end of the eastern facing row of dwellings) would be finished in chalk render to create a visual 'book-end' to the proposals. The dwellings also feature similar architectural detailing to the wider site (including the use of bay windows) which will ensure that they appear in keeping with the wider site.
- 5.5.5 The development does include two 1 bedroom flats and one 2 bedroom flat, however these have been designed in such a way as to appear as a two storey dwelling and would therefore appear in keeping within the wider area whilst also providing an appropriate mix of housing within the development.
- 5.5.6 The proposed dwellings will utilise a mix of red and buff bricks with predominately grey roofs interwoven with elements of rustic red to soften the roof scape. This palette of materials and colours will create a cohesive addition to the wider scheme with the materials selected from the same palette approved for the wider site.

- 5.5.7 A previous application on this site was withdrawn, partially to address design issues and ensuring that effective use of the land was made. This application has addressed previous officer concerns with the scheme with the overall development of the site appearing more commensurate with the wider development in terms of density and built form.
- 5.5.8 Overall it is considered that the design approach taken is appropriate to the site and would result in a seamless addition to the wider development. The development would therefore accord with LDP policies, the MDDG and the guidance contained within the NPPF.

5.6 Impact on Residential Amenity

- 5.6.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.6.2 There are residential dwellings currently under construction to the northern and western boundaries of the application site with a further residential dwelling (East View) located between 13 and 15 metres to the south of the application site boundary.
- 5.6.3 In terms of land use the proposal would result in a residential land use as opposed to a commercial/community land use which has already been granted. Given that the application site is located in an area characterised by residential dwellings it is considered that a residential use would not materially harm the amenities of the neighbouring residential occupiers, in terms of noise and disturbance.
- 5.6.4 The nearest residential dwelling to the application site that is not part of the wider development is East View which is located between 13 and 15 metres to the south of the application site and between 28 and 29 metres from the frontages of the proposed dwellings on plots 112, 113 and 114. There would be an access road, visitor parking and strip of soft landscaped amenity space between the proposed dwellings and the north facing flank elevation of East View. Given this degree of separation it is considered that the proposed development would not result in any materially harmful impacts towards the occupiers of this dwelling.
- 5.6.5 To the west of the application site are plots 63 – 71 of the wider consented site (14/01016/OUT and 19/00252/RES relate) and the proposed residential units would be positioned fronting onto these dwellings with the access road in between. There would be minimum building to building distances of 16 metres with any views from the proposed dwelling towards the public frontage of the existing consented plots. On this basis it is considered that the development would not result in any material loss of outlook, loss of light or loss of privacy towards future neighbouring occupiers.
- 5.6.6 To the north of the application site are plots 3 and 4 of the wider consented site (14/01016/OUT and 19/00252/RES relate) and the proposed residential units would be positioned between 14 and 18 metres away from these dwellings with the main access road into the development in between. Again given this separation distance, and that any views from the first floor windows would be towards the public frontage of the existing consented plots it is considered that the development would not result in any material loss of outlook, loss of light or loss of privacy towards future neighbouring occupiers.

- 5.6.7 In terms of internally within the proposed development the proposed residential units have all been positioned to ensure no material loss of privacy would occur towards future occupiers with most properties orientated flank to rear.
- 5.6.8 Overall it is considered that the proposed development would not result in any materially harmful impacts towards residential amenity and would accord with LDP Policy D1.

5.7 Access, Parking and Highway Safety

- 5.7.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.7.2 The application site benefits from existing vehicular access to Fambridge Road which has been constructed under consents 14/01016/OUT and 19/00252/RES. The principle of the vehicular access has already been established and outline consent previously granted for commercial/community use on the site which would have resulted in vehicular traffic.
- 5.7.3 The application has been supported by a transport statement technical note which considers the impact on the local highway network of the potential changes to the previously approved land usage. This transport statement for the original consent for 75 dwellings and 1000 sq m of flexible commercial/community uses concluded that:
- There will be one point of vehicular access into the site from Fambridge Road with 2.4 m x 70 m splays as requested by Essex County Council (ECC).
 - Traffic flows on Fambridge Road were light and the road could easily accommodate the additional traffic.
 - The development conformed to National Planning Policy as it is in an area accessible by sustainable modes of transport.
- 5.7.4 The technical note submitted with this application concludes that the conclusions drawn from the original transport statement for the wider development will not be affected by the proposed replacement of the commercial/community use with 12 additional residential units.
- 5.7.5 In terms of trip generation, the technical note states that: *"The proposed residential use at the site would generate fewer trips over the AM and PM peak periods than the consented commercial / business use. The comparison demonstrates that in the AM peak for the proposed residential development, there would be a reduction in 21 vehicular trips, and a reduction of 18 vehicular trips in the PM peak. The net reduction in the vehicular movements to and from the site as a result of the replacement land use will contribute to the overall reduction in the volume of traffic on the local highway network during the AM and PM peak hours."*
- 5.7.6 ECC Highways have been consulted on this application and advise that the proposal will not alter the approved site access junction with Fambridge Road and will result in a lower trip generation from the development. On this basis the proposal is not considered detrimental to highway safety, capacity or efficiency. ECC Highways therefore advise that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to appropriate conditions.

5.7.7 To meet the VPS the development would need to comply with the following residential standards:

- One bedroom dwelling: 1 off-street parking .
- Two and three bedroom dwelling: 2 off-street parking spaces.
- Four+ bedroom dwelling: 3 off-street parking spaces .
- Housing development for more than 10 dwellings should be served by 1 visitor parking per 4 dwellings.
- At least 1 home charging point per residential dwelling with off-street parking.

5.7.8 All proposed dwellings would meet the adopted parking requirements in terms of parking space provision. It is noted that some of the market dwellings would have garages, however these would meet the minimum internal dimensions requirements as set out in the VPS SPD (2018).

5.7.9 In relation to visitor parking 3 additional visitor parking spaces are proposed alongside the southern access road, with the six shown alongside the western access road already consented as part of the wider development. Cycle storage is also to be provided as well as 1 vehicle charging point to an allocated point for each dwelling.

5.7.10 Overall there is no objection to the proposal in terms of access, parking or highway safety subject to appropriate conditions.

5.8 Private Amenity Space and Landscaping

5.8.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Maldon Design Guide (MDG) SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.

5.8.2 All Proposed dwellings would meet the standards for private amenity space as set out in the MDDG with the majority of them exceeding the standards. In terms of outlook, ventilation and light, it is noted that all habitable rooms of all proposed types of dwellings would be served sufficient fenestration to secure the future occupants' living conditions.

5.8.3 In relation to landscaping the application has been supported by a landscape masterplan as well as a detailed soft landscaping plan. The submitted details show that the site would be well soft landscaped with evergreen hedges to define private curtilages, ornamental and native street trees, as well as mixed ornamental and herbaceous shrub planting to front gardens. Amenity grass areas will be planted with spring flowering bulbs for seasonal interest and ecological benefits. The proposed soft landscaping will soften the appearance of the development and assimilate well into the overall approved soft landscaping scheme for the wider development.

5.8.4 There is therefore no objection to the proposal in relation to private amenity space of soft landscaping as the development will provide appropriate level of private amenity space for each dwelling as well as soft landscaping to ensure the development complements the existing wider soft landscaping on the site and the public open space to the east.

5.9 Flood Risk and Drainage

Flood Risk

- 5.9.1 The area of the site where the 12 dwellings are proposed to be located lies within Flood Zone 1; however, the access to the site is located within Flood Zones 2 and 3.
- 5.9.2 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. To assess that, a Sequential Test should be applied.
- 5.9.3 Paragraph 158 states that “*The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.*”
- 5.9.4 Policy D5 of the LDP states that the Council’s approach is to direct strategic growth towards lower flood risk areas, such as Flood Zone 1 as identified by the Environment Agency (EA). Where development is not located in Flood Zone 1 and in order to minimise the risk of flooding, it should be demonstrated that the Sequential and Exception Tests, where necessary, have been satisfactorily undertaken in accordance with national planning policy.
- 5.9.5 The proposed houses would be located in Flood Zone 1; however, consideration should be had to the ingress and egress point of the site, which sits in flood Zones 2 and 3. It is acknowledged that the residential development has been located in the part of the site that lies within the area of the lowest risk of flooding and for that reason, in this particular instance, it is considered unnecessary for the sequential test to be applied in a District wide level in terms of alternative sites in lower risk of flooding, given that the development (the dwellings) is located in such area.
- 5.9.6 Following the application of the Sequential Test, if not possible for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied. Whilst in this instance the development (the dwellings) would be located in Flood Zone 1, it is considered that all other considerations related to flood risk and the sustainability credentials and wider benefits of the proposal should be undertaken as part of the exception test.
- 5.9.7 In accordance with the NPPF in order for the Exception Test to be passed the following should be demonstrated:
- ‘a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
- b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.’*
- 5.9.8 The development would provide wider sustainability benefits to the community as it would result in the erection of 12 dwellings, with 40% affordable, in a relatively sustainable location, and of an appropriate mix, in flood zone 1, which will assist in delivering the housing that is required within the District.

- 5.9.9 A Flood Risk Assessment (FRA) accompanies this application and the EA has raised no objection to the development. The EA advises that: *“Finished ground floor levels have been proposed at 5.53m AOD. This is above the 0.5% (1 in 200) annual probability flood level including climate change of 5.32 m AOD and therefore dry in this event.”* And *“There is refuge above the 0.1% (1 in 1000) annual probability flood level of 5.45 m AOD. Ground floor finished floor levels at 5.53, are set above this flood level.”*
- 5.9.10 With regard to the access of the site, the vehicular access is located within Flood zones 2 and 3 and therefore this proposal does not have a safe means of vehicular access in the event of flooding from all new buildings to an area wholly outside the floodplain. However, there is pedestrian access/egress to the west of the site that is located outside of Flood zones 2 and 3. The FRA submitted with the application recommended that future users of the site ensure they are registered with the EA's Flood Warning system to provide adequate forewarning in the event of a predicted flood in the neighbourhood. This can be dealt with via a condition.

Surface Water Drainage

- 5.9.11 In relation to surface water drainage the application has been supported by a Drainage Statement as well as a Drainage technical Note and detailed layout plans. The submitted drainage statement concludes that in terms of surface water drainage the proposal will provide a betterment as there will be a reduction in the size of impermeable built form compared to the consented 1000 sq m of commercial/community uses. This therefore results in a reduction in the runoff rates and the storage required within the site to attenuate surface water flows.
- 5.9.12 The detailed submitted surface water strategy details that the surface water strategy for this development will integrate into the overall drainage strategy for the wider site and will connect into the surface water network that was designed in accordance with the original strategy. Attenuation is used to achieve greenfield run off rates and this is to be provided with a geocellular storage system. Furthermore, permeable paving is to be used for all driveways.
- 5.9.13 The Lead Local Flood Authority (ECC Suds Team) have been consulted on this application and have confirmed that they have no objection to the proposed development subject to a condition requiring yearly logs of the maintenance of the Suds (which should be carried out in accordance with the SuDS Maintenance and Management schedule contained within the Drainage Statement).

Foul Drainage

- 5.9.14 At the time that the original outline consent for the wider development was granted there was insufficient capacity within the foul drainage network for any additional dwellings. The original outline consent granted for the wider scheme therefore had a condition attached to it which amongst other elements ensured that no dwellings could be occupied until confirmation is obtained of available permitted capacity in the network and at the treatment works.
- 5.9.15 In order to address capacity issues the applicant worked with Anglian Water to find a foul and wastewater strategy to serve the development. The foul and wastewater drainage strategy direct flows to the sewerage network draining to the South Woodham Ferrers WRC via a new rising main. Confirmation has been submitted detailing that the new rising main is in position and taking foul water from the development. The proposed dwellings will connect into this system with all foul water

drainage draining to the South Woodham Ferrers WRC. Anglian Water have been consulted on this application and have confirmed that:

“The foul drainage from this development is in the catchment of South Woodham Ferrers Water Recycling Centre that will have available capacity for these flows.”

- 5.9.16 On the basis of the above assessment the foul drainage to serve the development is considered to be acceptable.

5.10 Ecology

- 5.10.1 Paragraph 170 of the NPPF states that *“Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity.”* Furthermore paragraph 175 of the NPPF states that *“if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.”*

- 5.10.2 Strategic LDP policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District’s green infrastructure network

- 5.10.3 Policy N2 of the LDP states that:

“All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance.”

- 5.10.4 Policy D2 seeks all development to minimise its impact on the environment by incorporating measures to minimise all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.

- 5.10.5 The application has been supported by a Ecology Walkover Letter (JBA, January 2020) a Landscape Masterplan (JBA, February 2020) and an Addendum to the Ecological Walkover Letter (JBA, May 2021) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats. The application site already has had the principle of commercial/community use established. The site habitats comprise poor semi-improved grassland with tall ruderals. The ecological walkover survey was undertaken in January 2020 which found no constraints to the development and concluded that the habitats on site were of low value for ecology. A previous preliminary ecological appraisal was conducted in 2014 by t4 ecology ltd stating no major ecological constraints for the site. A badger survey was also conducted by in 2018 which found no evidence of the species.

- 5.10.6 The Council’s ecology consultant has been consulted on this application and have advised that there is sufficient ecological information available for determination of the application. They advise that this provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable in ecological terms.

- 5.10.7 Appropriate mitigation measures which include bird and bat boxes, the incorporation of native and/or wildlife attracting trees, shrubs and wildflower areas as well as 'hedgehog links' at the base of garden fences can be secured through a condition.
- 5.10.8 The application site is within approximately 180m of the Crouch and Roach Estuaries SPA and Ramsar site and therefore a bespoke Habitats Regulations Assessment (HRA) is required to be undertaken by the LPA. Given the proximity of the development to the designated site, all impacts from the construction and operational phase of the development on the designated site has to be considered.
- 5.10.9 Impact upon Designated Sites
- 5.10.10 As the proposed development affects a European protected site which is a Special Protection Area (SPA) and a Ramsar wetland, the LPA needs to carry out a HRA. The information provided by the applicant is used to undertake this assessment.
- 5.10.11 The application site already has consent granted for the principle of commercial/community use development and this was considered under the HRA undertaken for the original outline consent (14/01016/OUT). In relation to the construction phase of the development now sought this would not be materially different to the construction phase for the commercial/community use and it is not considered this would have a Likely Significant Effect (LSE) on the European sites.
- 5.10.12 The 12 residential dwellings would intensify the use of the site and therefore has the potential, without mitigation, to have a LSE on the European sites which would mainly be through recreation disturbance.
- 5.10.13 The proposed development is of a small scale and the direct disturbance caused by the development would be relatively limited, however there is already a high level of human activity and associated disturbance to the European sites.
- 5.10.14 When the development is considered in combination with the existing levels of disturbance already caused by existing developments in the area and the increased visitor pressure on the area from new housing developments it must be considered to have a LSE when viewed in combination with other developments.
- 5.10.15 Therefore, the proposed development has the potential, in the absence of mitigation, to result in significant adverse effects on the Crouch and Roach Estuaries European designated sites when considered in combination with other developments.
- 5.10.16 In terms of mitigation the addendum to the ecological letter advises that the proposed masterplan for the site as a whole shows two main areas of public open space within the site along with an area of landscaping along the western and northern boundary, all of which will be accessible by the public, and which in total comprises at least 2 hectares. Furthermore, to reduce the numbers of residents driving to designated sites for recreation purposes on a regular basis including to walk their dogs, the development will provide facilities which are attractive to residents seeking a local walk. The layout of the housing provides suitable circular walks within the open greenspace and developed areas. In addition, a 1.4km off site permissive footpath is to be created around the perimeter of adjacent agricultural land under the legal agreement attached to OUT/MAL/14/01016. This footpath will be easily accessible through the adjacent development and for the residents of these additional 12 dwellings.
- 5.10.17 On top of the green infrastructure detailed above and the footpath the development is located within the Zone of Influence (ZOI) for the Essex Coast RAMS a financial

contribution of £127.30 per dwelling (£1,527.60 total) will be secured from the applicant under a legal agreement.

- 5.10.18 Provided this mitigation measure is carried out, it can be concluded that reasonable measures have been taken to address the potential impact of the proposed development on the integrity of the relevant European sites. The green infrastructure has already been secured and the agent has agreed to the financial contribution to the Essex Coast RAMS which will be dealt with via a S106 legal agreement.
- 5.10.19 Natural England (NE) have been consulted on the application and have raised no objection to the proposal subject to securing the appropriate mitigation.
- 5.10.20 Having considered the proposed avoidance and mitigation measures above, it is considered that with mitigation the project will not have an Adverse Effect on the Integrity of the adjacent European Designated sites.
- 5.10.21 Overall it is considered that subject to conditions, the proposed development would be acceptable in terms of nature conservation and biodiversity in accordance with LDP policies as well as the NPPF.

5.11 Other Material Considerations

Heritage Assets

- 5.11.1 The nearest heritage asset to the site is Smuggler's Cottage which is located approximately 70 metres to the north of the vehicular access to the site. This property is on the List of Local Heritage Assets in North Fambridge, which was formally adopted by Maldon District Council (MDC) on the 6th of June 2019.
- 5.11.2 The proposed development has the potential to affect the setting of Smuggler's Cottage. However, the Council's Conservation and Heritage Specialist advises that the proposal for 12 dwellings will not cause any harm to the setting or significance of the locally listed building. This mainly is because of the considerable distance which separates the application site from the non-designated heritage asset.
- 5.11.3 The proposal therefore poses no conflict with the requirements of policy D3 of the Maldon LDP or policy 197 of the NPPF.

Conditions

- 5.11.4 A number of conditions have been recommended (as detailed in section 8 of this report). There are no pre-commencement conditions as the agent submitted all documents that are normally dealt with via pre-commencement conditions as part of this application.

6. ANY RELEVANT SITE HISTORY

(Relating to the application site and wider development site incorporating the 75 dwellings.)

- **OUT/MAL/14/00186** - 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 floorspace and a 1.8ha village green and public open space. Refused - 11.08.2014.
- **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 floorspace, a 1.8ha village green and public open space. Approved Subject to S106 - 18.03.2016.

- **RES/MAL/17/00776** - Reserved matters application for the approval of access, appearance, landscaping, layout and scale on approved planning 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 floorspace, a 1.8ha village green and public open space). Approved - 06.02.2018.
- **DET/MAL/17/05154** - 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 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 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. Part Approved Part Refused - 15.05.2018 – Allowed on Appeal.
- **DET/MAL/18/05041** - Compliance with conditions notification RES/MAL/17/00766 (Reserved matters application for the approval of access, appearance, landscaping, layout and scale on approved planning 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 floorspace, a 1.8ha village green and public open space.) Condition 9. Details of the sub-station and pumping station. Refused - 15.05.2018.
- **DET/MAL/18/05050** - Compliance with conditions notification 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 floorspace, a 1.8 ha village green and public open space) Condition 20 - Lighting strategy. Approved - 11.07.2018.
- **DET/MAL/18/05091** - Compliance with conditions notification of 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 floorspace, a 1.8ha village green and public open space). Condition 12 - Surface water drainage system maintenance. Condition 13 - Foul and surface water drainage scheme. Condition 17 - Discharge of surface water onto highway. Condition 31 - Wastewater strategy. Condition 33 - Foul water strategy. Refused - 07.08.2018.
- **DET/MAL/18/05119** - Compliance of 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 floorspace, a 1.8ha village green and public open space). Condition 25 - Risk assessment. Condition 26 - Detailed remediation scheme. Condition 27 - Remediation scheme commencement. Approved - 17.09.2018.
- **DET/MAL/18/05130** - Compliance with conditions notification RES/MAL/17/00776 (Reserved matters application for the approval of access, appearance, landscaping, layout and scale on approved planning 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 floorspace, a 1.8ha village green and public open space.) Condition 9. Details of the sub-station and pumping station. Approved - 18.10.2018.

- **RES/MAL/19/00252** - Reserved matters application for the approval of appearance, landscaping, layout & scale for 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 sqm of flexible commercial and community floorspace, a 1.8ha village green and public open space). Approved - 29.05.2019.
- **DET/MAL/19/05033** - 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 floorspace, a 1.8ha village green and public open space. Condition 5 materials. Condition 6 treatment boundaries. Condition 7 hard and soft landscape. Condition 8 tree survey. Condition 9 arboricultural method statement. Condition 16 car parking. Condition 19 construction management plan. Approved - 27.06.2019.
- **19/05116/DET** - Compliance with conditions notification 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 floorspace, a 1.8ha village green and public open space) Condition 13 - Foul & surface water drainage. Condition 31 Wastewater strategy. Condition 33 - Foul water strategy. – Approved - 08.11.2019
- **20/01233/FUL** - Application for a temporary sales area with associated landscaping, parking and entrance features for the period December 2020 - December 2022 – Approved – 22.02.2021

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 **Representations received from Parish / Town Councils**

Name of Parish / Town Council	Comment	Officer Response
North Fambridge Parish Council	The Parish Council has no objections to this application on planning terms. However, we would like to make a comment on the continuing incorrect assertion that the village has a bus service. The village has a fortnightly bus to Chelmsford and a weekly shoppers bus to South Woodham Ferrers only.	Noted. Locational sustainability issues are covered in section 5.1 of the main report.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Anglian Water	The foul drainage from this development is in the catchment of South Woodham Ferrers Water Recycling Centre that will have available capacity for these flows.	Noted and referenced in section 5.9.
ECC Highways	<p>As far as can be determined from the details submitted, the proposal will alter the existing permitted use for 1000m² of commercial / business space under planning permission OUT/MAL/14/01016 to 12 residential units. The proposal will not alter the approved site access junction with Fambridge Road and will result in a lower trip generation from the development.</p> <p>The proposal as submitted is not considered detrimental to highway safety, capacity or efficiency, therefore From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority, subject to conditions.</p>	Noted and covered within the main report section 5.7.
ECC Suds (Lead Local Flood Authority)	<p><u>First Response</u></p> <p>Issued a holding objection based on the following:</p> <ul style="list-style-type: none"> • Construction drawings need to be provided for the elements of the surface water drainage system • Exceedance routes need to be provided <p><u>Second Response</u></p> <p>Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission subject to a</p>	<p>Noted and required information was submitted.</p> <p>Noted and covered in section 5.9 of report.</p>

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	condition relating to the maintenance of the suds.	
Essex County Fire and Rescue Service	<p>Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13 and appears to be acceptable subject to satisfactory compliance with Building Regulations B5.</p> <p>More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.</p>	Noted.
Environment Agency	No objection to the proposal providing that LPA has taken into account the flood risk considerations.	Noted and covered in section 5.9 of report.
Place Services - Ecology	<p><u>First Response</u></p> <p>Holding objection due to insufficient ecological information on designated sites (Crouch and Roach Estuaries Special Protection Area and Ramsar site)</p> <p><u>Second Response</u></p> <p>No objection subject to securing biodiversity mitigation and enhancement measures.</p> <p>We note that this application is part of a wider development site, under 14/01016/OUT and 19/00252/RES and this application is for a change of use of 0.6ha of this site from commercial to residential development.</p> <p>We are now satisfied that there is sufficient ecological information available for determination.</p> <p>This provides certainty for the LPA of the likely impacts on</p>	<p>Noted and required information was submitted.</p> <p>Noted and covered in section 5.10 of report.</p>

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.</p> <p>The mitigation measures identified in the Addendum to the Ecological Walkover Letter (JBA, May 2021) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species.</p>	
Natural England	<p>It has been identified that this development falls within the 'Zone of Influence' (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).</p> <p>In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects.</p> <p>We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must</p>	Noted and covered in section 5.10 of report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.	

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	<p>The nearest heritage asset to the site is Smuggler's Cottage. This property is on the List of Local Heritage Assets in North Fambridge, which was formally adopted by Maldon District Council on the 6th of June 2019.</p> <p>The proposed development has the potential to affect the setting of Smuggler's Cottage. However, having studied the submitted plans, I advise that the proposal for 12 dwellings will not cause any harm to the setting or significance of the locally listed building. This mainly is because of the considerable distance which separates the application site from the non-designated heritage asset.</p> <p>The proposal poses no conflict with the requirements of policy D3 of the Maldon LDP or policy 197 of the NPPF. For this reason I raise no objection to the approval of the application.</p>	Noted.
Environmental Health	<p>It would appear that satisfactory provision can be made for foul drainage, but I would suggest a foul water condition.</p> <p>In accordance with the recommendations set out in the Site Investigation Report , October 2017 the revised conceptual model indicates a</p>	Noted

Name of Internal Consultee	Comment	Officer Response
	<p>presence of water soluble sulphate which can significantly attack buried concrete. A remedial strategy should be identified and approved with the relevant Building Control Officer.</p> <p>If ground conditions should differ significantly from those encountered during the intrusive investigation, including the discovery of any visible or odorous contamination, site redevelopment works should be suspended until the suspect material has been inspected and assessed by a competent Geo-Environmental Engineer. Details of any such discovery should be submitted to the Local Planning Authority for consideration.</p> <p>A construction management plan has been provided, project no.H7408 July 2020, Revision C20.012021. A condition should be applied to ensure it is adhered to.</p>	
Planning Policy Team	<p>No objection to the proposal subject to specified planning conditions being applied to any grant of permission. Raises a concern over loss of the commercial site and recommends submission of evidence to make sure the marketing was undertaken and that there were no buyers of interest.</p> <p>The District does not have a 5-year supply of housing and 12 homes delivering 41% affordable housing on a site very near a train station and near to services and facilities in South Woodham Ferrers being only 5.2m away and Maldon being 6.8m would assist in boosting the supply of housing in conformity with the NPPF.</p>	Noted and covered in sections 5.1 and 5.2 of the report.
Strategic Housing	The Full Planning Application is proposing the development of 12 No dwellings with associated	Noted and covered in section 5.3 of the report.

Name of Internal Consultee	Comment	Officer Response
	<p>details for access, appearance, landscaping, layout and scale, which triggers 40% affordable housing requirement under Policy H1 of the Approved Local Development Plan 2014-2029.</p> <p>The Applicant is proposing the following affordable properties - Affordable Rented 1 x 2 bed house, 69.6 sqm 1 x 1 bed flat, 50.1 sqm 1 x 1 bed flat, 52sqm</p> <p>Intermediate affordable 1 x 2 bed house, 69.6sqm 1 x 2 bed flat over garage, 65.4sqm</p> <p>The Applicant is meeting the required number of affordable properties as per Policy H1, and as such Strategic Housing Services supports this Application.</p> <p>Strategic Housing have confirmed that the properties meet HQI Standards and are acceptable in terms of overall size.</p>	

7.4 Representations received from Interested Parties

- 7.4.1 6 letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
A number of houses have already been granted permission in the village already and any more development will only hinder this village with further traffic and noise.	Traffic movements are considered in section 5.7 of the report and would be less than the commercial/community uses previously granted.
The houses are also not needed as Maldon District Council already has a five-year land supply and this is a new green field development.	Please see section 5.1 of the report.
Village unable to cope with existing new houses being built.	Please see section 5.1 of the report.
There is only one road in and out of the village and the 12 houses will generate additional traffic and congestion particularly at the entrance to the village making accidents more likely.	Traffic movements are considered in section 5.7 of the report and would be less than the commercial/community uses previously granted.

Objection Comment	Officer Response
The shops planned would be more useful to the village as would a doctors surgery – if no uptake then nothing should be put there.	Please see section 5.2 of the report.
Although no sufficient interest has been shown in the commercial/community site thus far, the option for it to be developed to support jobs or community uses in the village should remain, especially given the huge changes that society has undergone as a result of the coronavirus pandemic.	Please see section 5.2 of the report.
The provision of community/commercial space in the original plans was used to justify the wider development, which sits outside of the village footprint in an area in which development was previously prohibited, and the status of this land should not be retrospectively altered.	Please see section 5.2 of the report.
No infrastructure upgrades to benefit the village have resulted from the new developments.	Noted. This application is proposing 40% affordable housing and RAMs payment. No additional infrastructure has been highlighted as a requirement of the development.
Many villagers that have lived here for years are now experiencing flooding around the new housing estate.	Noted. Please refer to section 5.9 of the report.
Over the 2020/21 winter the new 75 house development, although still under construction, has already caused surface water flooding to existing housing and on the Fambridge Road in the village.	Noted. Please refer to section 5.9 of the report.
Transport statement details in relation to the bus service is inaccurate.	Noted.
The only buses that service the village are a fortnightly bus to Chelmsford, a weekly shoppers bus to South Woodham Ferrers and school buses.	Noted. It is acknowledged in the report that the site is within a reasonably sustainable location with limited facilities and services in the village. However, the train station offers good public transport links.
Trains are every 40 minutes and outside of peak hours, evenings and weekends passengers must change at Wickford. After about 11pm trains stop.	Noted.
No one cycles anywhere outside of the village because the roads are so dangerous and fast.	Noted.
Refers to Natural England comments and urge the council to start taking a rather longer-term view on this point.	Noted. Please refer to section 5.10 of the report.

8. **PROPOSED CONDITIONS AND HEADS OF TERMS OF ANY SECTION 106 AGREEMENT**

APPROVE subject to the applicant entering into a legal agreement pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) to require the following planning obligations:

- Affordable Housing (5 units - 41.7 %)
- Financial Contribution towards Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in complete accordance with approved drawings: H7408-3B-DE-611 Rev P1, H7408-3B-DE-621 Rev P1, H7408-3B-DE-622 Rev P1, H7408-3B-SO-625 Rev P1, H7408-3B-SP-600 Rev P1, H7408-3B-SP-610 Rev P1, H7408-3B-SP-620 Rev P1, H7408-3A-SP-001 Rev A, H7408-3A-SP-002, H7408-3A-SP-003, H7408-3A-SP-004, H7408-3A-SP-005, H7408-3A-SP-006, H7408-3A-SP-007, H7408-3A-SP-008, H7408-3A-SP-009, H7408-3A-SP-010, H7408-3A-SS-001 Rev A, JBA17 005-10 Rev D, JBA17/005-SK02 Rev B, Cycle-2A-CS-001 Rev A, 890372 RSK C ALL 02 01 01 Rev P04, 890372 RSK C ALL 04 01 01 Rev P04, 890372 RSK C ALL 05 01 01 Rev P04, 890372 RSK C ALL 05 02 01 Rev P05, 890372 RSK C ALL 06 01 01 Rev P04, B7X3DG-EL, B7X3DG1-FP, B7X3DG2-FP, H436-ELR, H436-FL, H469-EL, H469-FL, H421-EL, H421-FP, P341-BW-EL, P341-BW-FL, P204-FP-EL, SH50-FP-EL, SF58/59-FP-EL-DET, SH73-EL, SH73-FP.

REASON: To ensure the development is carried out in accordance with the details as approved.

- 3 The materials used in the external construction of the development hereby approved shall be as set out within the application form and plans

REASON: To ensure the appropriate appearance of the development in the interest of the character and appearance of the area and wider development in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

- 4 Within the first available planting season (October to March inclusive) following the occupation of the development the landscaping works as shown on plan references JBA17 005-10 Rev D and JBA17/005-SK02 Rev B and specifications attached to and forming part of this permission shall be fully implemented. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

REASON: In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.

- 5 Prior to the first occupation of the development hereby permitted the hard landscape works and boundary treatments as shown on plan reference H7408-3A-SP-008 shall be carried out and retained as such thereafter.

- REASON: In the interest of the character and appearance of the area as well as to ensure privacy for future residents in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.
- 6 The foul drainage for the development shall be implemented prior to the first occupation of the development in accordance with the Drainage Statement – 890372-R1(3) dated February 2020 with foul drainage connecting to the new rising main to be discharged at South Woodham Ferrers treatment works.
REASON: To ensure appropriate foul drainage for the development in accordance with policies D2 and D5 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.
- 7 The surface water drainage for the development shall be implemented prior to the first occupation of the development in accordance with the Drainage Statement – 890372-R1(3) dated February 2020.
REASON: To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site in accordance with policy D5 of the approved Maldon District Local Development Plan, and guidance contained within the National Planning Policy Framework.
- 8 The applicant or any successor in title must maintain yearly logs of the maintenance of the SuDS system which should be carried out in accordance with any approved Maintenance Plan (appendix F of the Drainage Statement – 890372-R1(3) dated February 2020). These must be available for inspection upon a request by the Local Planning Authority.
REASON: To ensure the SuDS are maintained for the lifetime of the development as outlined in the approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk in accordance with policy D5 of the approved Maldon District Local Development Plan, and guidance contained within the National Planning Policy Framework.
- 9 The development hereby approved shall be carried out in accordance with the Construction Management Plan Revision C dated 20.01.2021 unless otherwise agreed in writing by the Local Planning Authority.
REASON: To minimise disruption caused during construction works and to ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and in accordance with policies D1 and T2 of the approved Maldon District Local Development Plan, and guidance contained within the National Planning Policy Framework.
- 10 Prior to first occupation of the development, and as shown in principle on planning drawing H7408-3A-SP-002. Each vehicular access shall be constructed at right angles to the highway boundary and to the proposed carriageway.
REASON: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy T1 of the approved Maldon District Local Development Plan, and guidance contained within the National Planning Policy Framework.
- 11 Prior to first occupation of the development, the onsite vehicle parking shall be provided as shown in principle on planning drawing H7408-3A-SP-002. Each parking space shall have dimensions in accordance with current parking standards. Furthermore, a fast charging point shall be provided adjacent to at least one parking space for each new dwelling. The vehicle parking areas shall be retained in the agreed form at all times.
REASON: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with the adopted vehicle

- parking standards and policy D1 of the approved Maldon District Local Development Plan, and guidance contained within the National Planning Policy Framework.
- 12 Prior to first occupation of the development, the cycle parking as shown on plan references H7408-3A-SP-005 and CYCLE-2A-CS-001 shall be provided. The approved facility shall be secure, convenient, covered and retained at all times.
REASON: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with the adopted vehicle parking standards and policy D1 of the approved Maldon District Local Development Plan, and guidance contained within the National Planning Policy Framework.
- 13 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
REASON: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policies T1 and T2 of the approved Maldon District Local Development Plan, and guidance contained within the National Planning Policy Framework.
- 14 There shall be no discharge of surface water onto the Highway.
REASON: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety in accordance with policies T1 and T2 of the approved Maldon District Local Development Plan, and guidance contained within the National Planning Policy Framework.
- 15 Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to the Local Planning Authority for approval in writing. These approved schemes shall be carried out before the development is resumed or continued. Following completion of measures identified in the approved remediation scheme, a verification report demonstrating the effectiveness of the remediation scheme carried out must be submitted to the Local Planning Authority for approval in writing.
REASON: To ensure any contamination found present on the land is remediated in the interests of the future users of this development as well as neighbouring land uses and the water environment in accordance with policy D2 of the approved Maldon District Local Development Plan, and guidance contained within the National Planning Policy Framework.
- 16 The development shall be carried out to ensure that all mitigation and enhancement measures as detailed in the Ecology Walkover Letter (JBA, January 2020) and the Landscape Masterplan (JBA, February 2020) and the Addendum to the Ecological Walkover Letter (JBA, May 2021) are carried out.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

REASON: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) in accordance with policies N1 and N2 of the approved Maldon District Local Development Plan, and guidance contained within the National Planning Policy Framework.

- 17 There shall be no external lighting of the development unless otherwise agreed in writing by the local planning authority.
REASON: To ensure the development is appropriate to the locality which is and would not result in any harm to biodiversity in accordance with policies D1 and N2 of the approved Maldon District Local Development Plan, and guidance contained within the National Planning Policy Framework.
- 18 No works above ground level associated with the development hereby approved shall take place until a strategy to facilitate superfast broadband for the future occupants of the dwellings hereby approved, either through below ground infrastructure or other means, has been submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the agreed details.
REASON: To ensure that appropriate infrastructure is provided for the new development to meet the community needs, in accordance with policy I1 of the approved Maldon District Local Development Plan.

INFORMATIVES

- 1 All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be addressed for the attention of the Development Management Team at SMO2 - Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford. CM2 5PU or emailed to development.management@essexhighways.org



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
NORTH WESTERN AREA PLANNING COMMITTEE
14 JULY 2021

Application Number	21/00415/FUL
Location	Land North of Orchard Way, Mope Lane, Wickham Bishops
Proposal	Creation of a 4/5 bedroom dwelling and garden
Applicant	Erica and Claire Webber and Koch
Agent	Karen Fardell - Plater Claiborne Architecture And Design
Target Decision Date	EOT 15.07.2021
Case Officer	Hayleigh Parker-Haines
Parish	WICKHAM BISHOPS
Reason for Referral to the Committee / Council	Departure from Local Plan

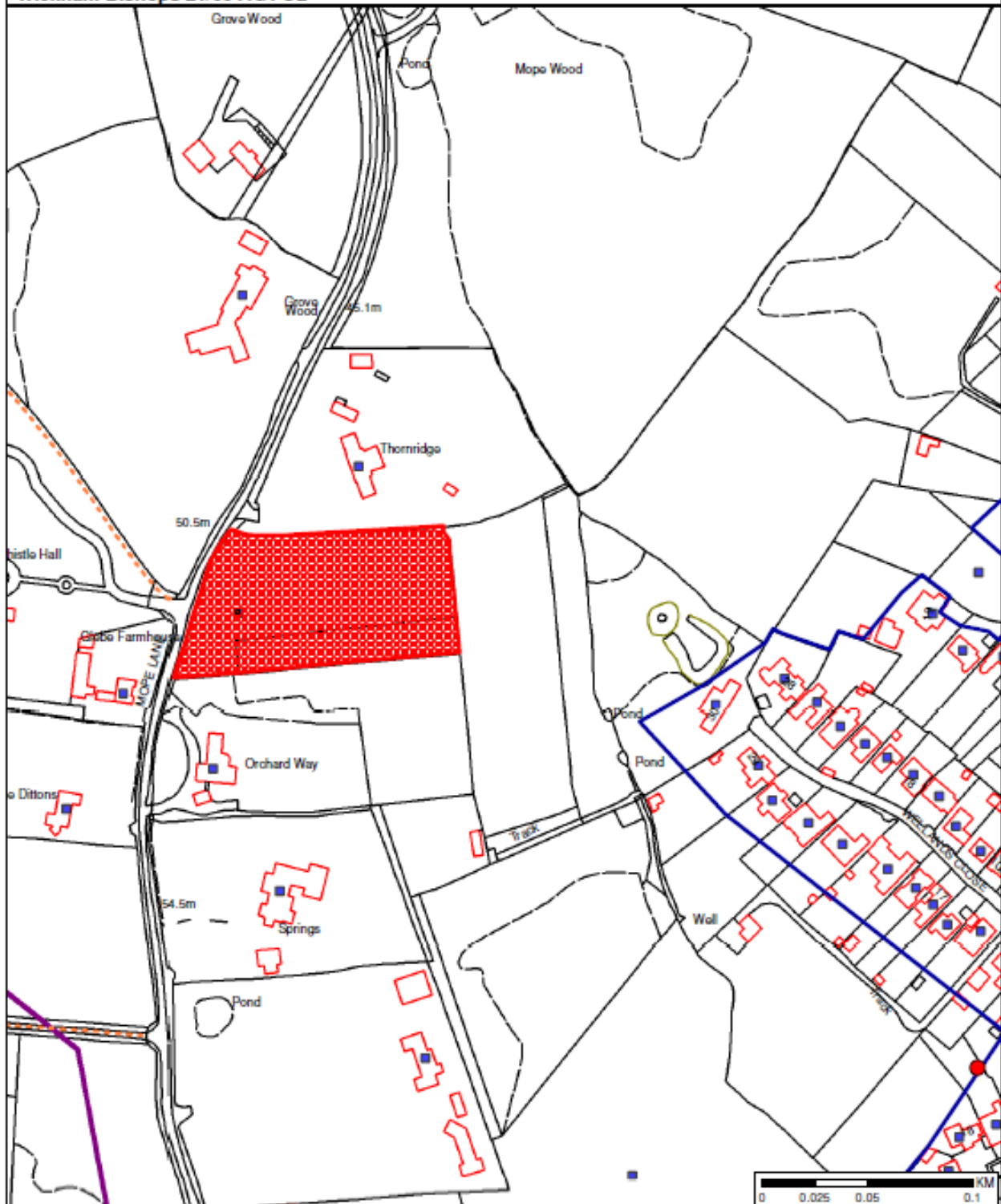
1. RECOMMENDATION


APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see below.

Land North Of Orchard Way - Mope Lane **Wickham Bishops 21/00415/FUL**



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	Organisation:	Maldon District Council
	Department:	Planning Services
	Comments:	21/00415/FUL
	Date:	12/05/2021
	MSA Number:	100018588
www.maldon.gov.uk		

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site sits to the eastern side of Mope Lane and does not fall within any defined settlement boundary. The site is currently open land, currently used for the grazing of horses, free from built form with the ground sloping in a westerly direction (ground level lower close to Mope Lane). The application site benefits from an existing access off of Mope Lane and previously benefitted from an Orchard; which is believed to have been removed in 2013.
- 3.1.2 Planning permission is sought for the construction of a new dwelling; this is proposed to utilise the change in ground levels, so whilst the proposed dwelling is to be two storey, when viewed from Mope Lane this would appear single storey due to the change in ground levels. The proposed dwelling is split into two buildings with a glazed link adjoining the two aspects. The building to the north will be referred to as building one and the building to the south will be referred to as building number two. Furthermore, to avoid confusion ground floor will refer to the aspect of the proposal for all intents and purposes at the lower than ground level and first floor will refer to the aspects of the proposal above ground level, when viewed in the wider aspects of the site.
- 3.1.3 Building number one has a maximum height of 8.1 metres with an eaves height of 4.7 metres, a depth of 18metres and a width of 6.25 metres. To the northern elevation three glazed panels are proposed alongside a light well, to the eastern elevation one large glazed panel is proposed, to the southern elevation three large glazed panels, one ground floor window, two first floor windows and a rooflight are proposed and to the western elevation one glazed panel is proposed. This would provide three bedrooms with en-suites and one with a dressing room at ground floor level and a hall, utility, snug and open plan kitchen, dining and family room at first floor.
- 3.1.4 Building number two would have a maximum height of 7.6 metres with an eaves height of 4.8 metres, a depth of 18 metres and a width of 5 metres. To the eastern elevation there is a set of doors and a large glazed panel at first floor and to the southern roof slope solar panels are proposed. At ground floor this will provide plant and energy pumps, storage and a garden room/summer kitchen and at first floor a gym, sauna, bedroom, shower room and a home office.
- 3.1.5 A garage building is also proposed to the western side of building two. This would have a depth of 6.6 metres, a width of 6 metres and a height of 2.7 metres. It is proposed that this would accommodate parking provision for two vehicles and would include a green roof. The proposed link adjoining the two buildings would have a width of 4.2 metres, a depth of 1.9 metres and a height of 2.2 metres.
- 3.1.6 The proposal includes the re-planting of the Orchard, the introduction of an open meadow and legacy planting. The proposed Orchard will be predominately to the north of the driveway proposed and will consist of three types of apple trees; D'Arcy Spice, Red James Grieves and Discovery. The proposed open meadow would be to the south of the access and will consist of Essex Natives and drought resistant botanic mixes and will include a wildlife pond. The Legacy planting will consist of Oaks and these would be predominately to the south western corner of the site.

3.2 Conclusion

- 3.2.1 The proposed development has been assessed against the development plan and all relevant material planning considerations, taking into account the Council's previous decision within the vicinity of the site and in this instance; it is considered that the principle of the provision one dwelling in this location is acceptable. It is considered that whilst the proposed development is not located within a defined settlement boundary it is in a location that the Council has previously found development acceptable. Furthermore, appropriate weight should be given to the scheme in relation to the biodiversity features and landscaping proposed which are considered to weigh in favour of the proposed development in environmental terms. No objection is raised in relation to the impact of the development on residential amenity or the parking provision. Therefore, subject to appropriate conditions, the development is considered on balance, acceptable and in accordance with the aims of the National Planning Policy Framework (NPPF).

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2019 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 54-57 Planning conditions and obligations
- 117-123 Making effective use of land
- 124-132 Achieving well-designed places

4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D4 Renewable and Low Carbon Energy Generation
- H2 Housing Mix
- H4 Effective Use of Land
- N1 Green Infrastructure Network
- T1 Sustainable Transport
- T2 Accessibility

4.3 Wickham Bishops Neighbourhood Plan:

- WBEc 01 Home Working
- WBEc 01 Recreational Disturbance Avoidance and Mitigation
- WBEc 02 Biodiversity and Natural Habitats
- WBEc 03 Special Views and Vistas
- WBEc 04 Open spaces
- WBEc 06 New Development and flood risk.

- WBF 02 Sustainable Means of Travel
- WBF 03 Highways Safety
- WBH 01 Design and Character

4.4 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Maldon District Design Guide (MDDG) SPD
- Maldon District Vehicle Parking Standards (VPS) SPD
- Wickham Bishops Village Design Statement

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Council is required to determine planning applications in accordance with its Local Development Plan (LDP) unless material considerations indicate otherwise. This is set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990)), and through Government policy, at paragraph 47 of the NPPF;
- 5.1.2 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five Year Housing Land Supply (5YHLS).
- 5.1.3 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the 'Tilted Balance'. This position is set out in paragraph 11d, together with its footnote 7, of the National Planning Policy Framework which states:

"For decision taking this means:

"(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

"(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or

"(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

'Footnote 7 - 7 This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73)

- 5.1.4 At the heart of the NPPF is a presumption in favour of sustainable development (the 'presumption') which is central to the policy approach in the Framework, as it sets out the Government's policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The

NPPF replaces Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (*Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC* [2017] UKSC 37)

- 5.1.5 It is necessary to assess whether the proposed development is 'sustainable development' as defined in the NPPF. If the site is considered sustainable then the NPPF's 'presumption in favour of sustainable development' applies. However, where the development plan is 'absent, silent or relevant policies are out-of-date', planning permission should be granted 'unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted'
- 5.1.6 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.
- 5.1.7 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 re-iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be 'sustainable development' through the three dimension tests of the NPPF the LPA are obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme.
- 5.1.8 Paragraph 78 of the NPPF states that:
- 'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby'*
- 5.1.9 The application site lies approximately 160 metres from the defined settlement boundary of Wickham Bishops. Wickham Bishops is defined as a larger village with a range of services and opportunities for employment, retail and education, which serves a wide catchment area and contains good public transport links. The closest bus stop to the application site sits 0.9 miles to the east and would involve walking along Mope Lane in a southerly direction and Church Road in an easterly direction; this is estimated to take 17 minutes by foot; neither of these roads benefit from street lighting or public footpaths for the majority of the journey. This bus stop offers the 90 service which provides regular transport to Witham and Maldon.
- 5.1.10 It is pertinent to note than an application approximately 350 metres to the north of the site at 'Fernbrook Hall' was recently approved by the Council for the conversion of stables to a dwelling (20/00641/FUL). Access to facilities from this site, similar to the site the subject of this application and would involve walking along Mope Lane and

Church Road, or Mope Lane and Witham Road (Witham Road is a main road with a 60mph speed limit),

- 5.1.11 It must be noted that planning application 20/00641/FUL was recommended for refusal by officer's partially on the basis of an inappropriate location. However, in this instance the North Western Planning Committee did not agree with the officer's recommendation and granted planning permission for a new dwelling in this location. Whilst Members are not bound to follow an officer's recommendation they are bound by the same policies and can attribute appropriate weight to the various material considerations as they see fit. The Committee stated, when granting planning permission, that *"on balance there was not significant harm, the proposal was of acceptable design and replaced an existing building"*. Therefore, when granting planning permission the silence on the appropriateness of the location and no specific material considerations weighing in favour of the development means that the Council has accepted this location is an appropriate location, in relation to accessibility to facilities for day to day living, for new residential development.
- 5.1.12 Whilst it is acknowledged that different routes would be utilised to access the bus stop, they are largely similar in nature. It is noted that the majority of facilities offered within Wickham Bishops are to the north eastern end of the village, and as discussed above, this is not considered to significantly alter the route required to access the services within the village. Therefore, taking into account the above assessment alongside applying appropriate weight to the Council's recent decision in this area, it is considered that the principle of providing a residential dwelling on this site, having regard to the Council's need to be consistent in its decision making, is supported.

5.2 Housing Need

- 5.2.1 In respect of the Council's current land supply position, the NPPF states that Local Authorities should consider applications for new dwellings in the context of the presumption in favour of sustainable development and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.
- 5.2.2 Policy H2 of the LDP and its preamble (paragraph 5.2.2), which when read alongside the evidence base from the Strategic Housing Market Assessment (SHMA), shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one- and two-bedroom units, and around 71% of all owner-occupied properties having three or more bedrooms. The Council is therefore encouraged in the approved policy H2 to provide a greater proportion of smaller units to meet the identified needs and demands.
- 5.2.3 Whilst the LDP carries limited weight at present, the NPPF is clear that housing should be provided to meet an identified need. Therefore, it is still considered that weight should be afforded to the evidence base from the SHMA.
- 5.2.4 The Council is therefore encouraged in the policy H2 of the LDP to provide a greater proportion of smaller units to meet the identified needs and demands. The proposal would provide a 4 / 5 bedroom property. Taking into account, the Council's current position, the proposal would make a contribution to improving the Council's housing stock. However, the benefits of the scheme in regard to this are negligible as there would be a net gain of one dwelling, of a size not needed by the Council, and

therefore, this is given minimal weight.

5.3 Design and Impact on the Character of the Area

5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.

5.3.2 It should be noted that good design is fundamental in creating better places to live and its importance is reflected in the NPPF. The NPPF states that:

“The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account local design standards, style guides in plans or supplementary planning documents”.

5.3.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- b) Height, size, scale, form, massing and proportion;
- c) Landscape setting, townscape setting and skylines;
- d) Layout, orientation, and density;
- e) Historic environment particularly in relation to designated and non-designated heritage assets;
- f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
- g) Energy and resource efficiency.

5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).

5.3.5 The surrounding area is predominately open countryside with sporadic forms of development along the Road, mainly larger detached dwellings, set within spacious plots, with formal brick and railing boundary treatments. Neighbouring properties have a footprint and set back from the Lane as follows:

	Set back from Lane (metres)	Footprint of dwelling (approx.)
Orchard Way	21	919m ²
Thistle Hall	76	2676m ²
Thornridge	48	903m ²

5.3.6 The proposed dwelling would be located approximately 73 metres from the lane, which whilst is a great degree than two of the neighbouring properties, is not by such

a degree that it would result in an incongruous feature within the streetscene. Furthermore, it is similar to the set back of the adjacent neighbouring property. Additionally, the siting of the development set back within the plot results in a less prominent and dominant form of development within the streetscene.

- 5.3.7 The proposed dwelling would occupy a total footprint of approximately 245m² with the main bulk of the buildings directed away from Mope Lane. Whilst this is more modest in scale than the neighbouring properties and is not of a scale commonly found within the vicinity; it is considered to maintain the open nature of the site, retaining as much space free from built form as possible. Furthermore, the property being split into two long, thin buildings with layered heights is considered to give the appearance, when viewed from Mope Lane of two single storey buildings, further reducing any dominating impact on the character and appearance of the surrounding area.
- 5.3.8 The proposal includes the re-planting of the orchard to the north western side of the plot to re-establish its previous character and contribution to the surrounding area. Furthermore, to the south western side of the site, it is proposed to create a wildflower meadow and biodiversity pond, alongside additional planting of Oak trees to offer a natural buffer to the site with limited formal hard boundary treatments, it is considered that these features would contribute to a visual improvement of the site and would reflect its previous use, and therefore, these aspects are considered in environmental terms to weigh in favour of the proposed scheme in line with policy D1, H4 and N1. Furthermore, the Wickham Bishops Neighbourhood Plan WBen 02 encourages proposals to reinstate or manage orchards stating these will be supported. This policy further goes on to advise that new development should seek to enhance the Arcadian green nature of the Parish, retain existing natural boundary treatments and create opportunities for habitats, all of which is proposed as part of this development.
- 5.3.9 Whilst it is noted that the site is currently open land, free from built form, due to the utilisation of the change in ground levels, the majority of the domestic paraphernalia to be associated with the dwelling would be set below ground level and would not be visible from within the Lane, this alongside the above mentioned planting is considered to largely mitigate the urbanising impact of the proposal.
- 5.3.10 The proposed dwelling is to be finished in brick with plain clay tiles for the roof with powder coated aluminium windows and doors; whilst exact details are unknown it is considered that these could be secured via an appropriately worded condition. Furthermore, the materials proposed are found at the neighbouring properties of the site and therefore, would not be incongruous features within the streetscene.
- 5.3.11 It is noted that solar panels are proposed to the southern roof slope of building two, these form a functional purpose and would not be highly visible within the public realm and would not form a prominent feature within the landscape. Furthermore, Policy WBH01 of the Wickham Bishops Neighbourhood Plan seeks to support development which incorporates features that improve its environmental performance reducing carbon emissions; including energy efficiency measures.
- 5.3.12 Taking into account the above assessment, whilst it is noted that the proposed development would result in the inherent domestication of the site, it is considered that the re-instatement of the orchard, the additional planting and due to the position, location, scale, bulk and design of the proposed dwelling the proposal would not have a detrimental impact on the character and appearance of the surrounding area and is therefore considered to be in compliance with policies D1, H4, S1, S8 and N1 of the LDP, policies contained within the Wickham Bishops Neighbourhood Plan and guidance contained within the NPPF.

5.4 Impact on Residential Amenity

- 5.4.1 Policy D1 of the LDP seeks to protect the amenity of surrounding areas, taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.4.2 The application site is bordered by open fields to the east, Orchard Way to the south, Thornridge to the north and Glebe Farmhouse being the closest neighbouring property to the west. Due to the nature of the supplementary planting it is not considered that these aspects of the proposal would represent an unneighbourly form of development in relation to any of the neighbouring properties.
- 5.4.3 The proposed dwelling would sit 26 metres from the northern shared boundary and over 40 metres from the neighbouring property Thornridge, 19.9 metres from the southern shared boundary and over 40 metres from the neighbouring property Orchard Way and over 60 metres from Glebe Farmhouse. Due to these sufficient degrees of separation, it is not considered that the proposed development would represent an unneighbourly form of development in relation to any neighbouring properties.
- 5.4.4 Furthermore, each habitable room would be served by at least one window and therefore, it is considered that the proposed dwelling would provide sufficient living accommodation for current and future occupants.
- 5.4.5 For the reasons discussed, it is not considered that the proposal will result in any unacceptable harm by way of overlooking, loss of light or loss of privacy nor is it considered that the development would be overbearing or result in unacceptable noise impacts. Therefore, the proposal is in accordance with policy D1.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes, this is further supported within WBF03 of the Wickham Bishops Neighbourhood Plan.
- 5.5.2 The recommended standard for a five bedroom dwelling is a minimum of three car parking spaces. There is a proposed double garage that has internal measurements of 5 metres by 5.5 metres which would fall short of the minimum internal size of 6 metres by 7 metres for a double garage. However, it is considered that this could provide parking provision for two reasonably sized vehicles. Furthermore, there is adequate hardstanding to the front of the proposed dwelling to comfortably accommodate a minimum of three spaces.
- 5.5.3 The access point to the dwelling is existing and therefore, there are no concerns in relation to this. Furthermore, Highways were consulted as part of this application and raised no objection subject to the inclusion of seven conditions. Condition four recommended by highways is in relation to any gates to be provided to the vehicular access, it is not considered reasonable to include this condition as the site benefits from a gated entrance already, which is not set back 6 metres from the highway. Condition five recommended by Highways is in relation to unbound material being used as a surface treatment, this is not considered relevant to include as the design

and access statement advises that the entrance to the site will be bound material with additional details to be secured via another condition in relation to hard and soft landscaping. Furthermore, condition seven recommended by highways is in relation to the distribution of residential travel information, again this is considered unreasonable given the development is for the construction of one dwellinghouse.

- 5.5.4 Taking into account, the above assessment it is considered that the proposal is considered acceptable in terms of access, parking and highway safety and therefore, is in compliance with policy T2 and D1 of the LDP and WBF03 of the Wickham Bishops Neighbourhood Plan.

5.6 Private Amenity Space and Landscaping

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.6.2 The proposed dwelling would have a private rear amenity space in excess of 100m² which would accord with the recommended standard.
- 5.6.3 It is noted that as part of the application a number of additional soft landscaping features are proposed including the re-instatement of the orchard, legacy planting and a wild meadow, it is considered that should the application be approved, further details in relation to the landscaping proposed e.g. number of trees for the orchard and legacy planting, location and time frames for planting could be secured via condition.

5.7 Planning Balance and Sustainability

- 5.7.1 One of the key priorities within the NPPF is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for an economic, social and environmental objective as set out in the NPPF.
- 5.7.2 Notwithstanding, and as noted at 5.1.7 above, the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making and case law (noted in preceding paragraphs), confirms that other policies in the plan are still relevant for decision making purposes where they are applicable to the proposal under consideration.
- 5.7.3 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall (with reasons), against the harm identified (if any) arising from the proposed development.
- 5.7.4 With regard to the 3 tests of sustainability, in economic terms, it is reasonable to assume that there may be some support for local trade from the development, and the additional dwelling may support local businesses within the settlement such as shops and services. This would however be limited given the scale of the proposal. Equally, there is no guarantee that the construction would be undertaken by local businesses, with locally sourced materials. Limited details are provided within the

application to this effect. Any economic benefits would therefore be considered nominal.

5.7.5 In relation to environmental sustainability, the site has limited access to services, facilities and public transport infrastructure. However, that the Council has recently accepted that occupiers of a new dwelling at a site nearby will have a similar reliance on private motor vehicles to satisfy the requirements of day-to-day living. Furthermore, it is considered that the proposed biodiversity features, alongside the sympathetic design and that the majority of the domestic paraphernalia would utilise the site and be set within the landscape with the additional planting and therefore, the proposal is considered to have a limited impact on the character and appearance of the surrounding area. Therefore, it is considered that this aspect would weigh minimally in favour of the proposed development.

5.7.6 In social terms the development should assist in supporting a strong, vibrant and healthy community. The proposed re-instatement of the Orchard, to return the sites historic character and contribution to the local community, is likely to be considered to off-set this harm and therefore, in social terms the proposal is considered to have a neutral impact.

5.8 Ecology regarding development within the Zone of Influence (Zol) for the Essex Coast RAMS.

5.8.1 Paragraph 170 of the NPPF states that 'Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity.'

5.8.2 Strategic LDP policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.

5.8.3 In terms of off-site impacts, Natural England (NE) have advised that this development falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council (MDC), working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. NE advise that MDC must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.

5.8.4 NE has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary Special Protection Area (SPA) and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational Zol of these sites cover the whole of the Maldon District.

- 5.8.5 NE anticipate that, in the context of the local planning authority's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these Zol constitute a likely significant effect on the sensitive interest features of these designated site through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), Houses in Multiply Occupation (HMOs), student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.8.6 Prior to the RAMS being adopted, NE advise that these recreational impacts should be considered through a project-level HRA – NE has provided an HRA record template for use where recreational disturbance is the only HRA issue.
- 5.8.7 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, NE does not provide bespoke advice. However, NE's general advice is that a HRA should be undertaken and a 'proportionate financial contribution should be secured' from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s) targeted towards increasing the site's resilience to recreational pressure and in line with the aspirations of emerging RAMS and has currently been set at £127.30 per dwelling.
- 5.8.8 To accord with NE's requirements, an Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, as follows:

HRA Stage 1: Screening Assessment – Test 1 - the significance test

Is the development within the zone of influence (Zol) for the Essex Coast RAMS with respect to the previously listed sites? Yes (Blackwater Estuary SPA and Dengie SPA)

Does the planning application fall within the specified development types? Yes

HRA Stage 2: Appropriate Assessment- Test 2 – the integrity test

Is the proposal for 100 houses + (or equivalent)? No

Is the proposal within or directly adjacent to one of the above European designated sites? No.

Summary of Appropriate Assessment - as a competent authority, the Local Planning Authority concludes that the project will, without mitigation, have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account Natural England's advice, it is considered that mitigation, in the form of a financial contribution of £127.30 is necessary.

- 5.8.9 It is noted that the Applicant has provided a Unilateral Undertaking to secure this payment, which is considered to be acceptable, and therefore, the impact of the proposal could be mitigated and therefore would not form reason for refusal.

5.9 Ecology

- 5.9.1 The NPPF states that if significant harm to priority habitats and species resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.
- 5.9.2 A consultation response from Place Services has raised no objections to the proposed development subject to conditions, including a Construction Environmental Management Plan Biodiversity.
- 5.9.3 As discussed above the applicant has indicated that the proposed development will include a number of ecological enhancements, including the replanting of the orchard, and these weigh in favour of the development. It is considered appropriate to impose conditions that these benefits are delivered as part of the development.
- 5.9.4 Based on the above consultation response, it is considered any ecological impacts will be minimal and the proposal is considered acceptable in ecological terms subject to the conditions.

5.10 Trees

- 5.10.1 Due to the nature of the site the Council's Tree Consultant was consulted and raised no objections to the proposal. It is noted the proposed scheme would create a diverse habitat for wildlife, however no details have been provided in regard to tree protection, which is considered important due to there being trees directly adjacent to the access of the site. It is considered the remainder of the trees on the site would be far enough away from the proposed development however they too would need to be protected from construction activities. It is therefore considered if the application is to be approved a condition would be imposed requesting a Tree Protection Method Statement in accordance with BS5837:2012.

5.11 Other Matters

- 5.11.1 It is noted that neighbouring objection letters refer to other development within the area which were refused on 'sustainability' grounds; 'The Old Rectory', 'Land Adjacent to Little Hill Farm', 'Glebe Farm House' and 'Orchard Way'. With reference to 'The Old Rectory' and 'Glebe Farmhouse' this was determined at a time when the Council were able to demonstrate a 5YHLS and therefore policies S1 and S8 (of the current LDP) carried full weight. As discussed within Section 5.1 of this report these policies no longer carry full weight and therefore, paragraph 14 of the NPPF are invoked. Land Adjacent to Little Hill Farm; the principle of a dwellinghouse on this site has been found to be acceptable by the Inspectorate; with it being stating the site was a relatively sustainable location, particularly within a rural area such as this. The Inspector also noted the role that new development has in supporting the vitality and viability of rural communities and the services that they support. The Orchard Way decision was in 2014 and before the adoption of the current LDP (2017).
- 5.11.2 It is noted that the Specialist in Environmental Health has recommended a condition in relation to a construction management plan, however, it is considered that other recommended conditions would ensure the protection of this site from building work related activity, this is not considered to be a reasonable condition to include, however, has been included as an informative.

6. **ANY RELEVANT SITE HISTORY**

- **14/00401/OUT** – Outline application for single dwelling including determination of access and layout. - Refused 11.07.2014
- **15/00325/OUT** - Outline application for single dwelling including determination of access and layout. – Refused 25.06.2015

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 **Representations received from Parish / Town Councils**

Name of Parish / Town Council	Comment	Officer Response
Wickham Bishops Parish Council	The Parish Council has received eight letters of support from local residents and one letter of objection. The Parish feel that the Application has much to commend it ecologically and environmentally but is disappointed to note anomalies in the pre-application advice given by MDC. Recommend refusal on following grounds: <ul style="list-style-type: none">- Outside the settlement boundary- Unsustainable location- Does not meet the recognised housing need- Contravenes WBen 02 and WBen04 of the neighbourhood plan	Comments noted and discussed within section 5.1 and 5.3 of this report.

7.2 **Statutory Consultees and Other Organisations (*summarised*)**

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highways	No objection subject to the inclusion of seven conditions should the application be approved	Comments noted and discussed within section 5.5 of this report
Place Services - Ecology	No objection subject to conditions regarding the securing of biodiversity mitigation and enhancement measures, a Construction Environment Management Plan and sensitive lighting design.	Comment noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Specialist – Environmental Health	No objection subject to the inclusion of three conditions should the application be approved.	Comments noted

7.4 External Consultees

Name of Internal Consultee	Comment	Officer Response
Tree Consultant	<p>The scheme looks like it can create a diverse habitat for wildlife compared with the meadow, and the soft landscaping scheme includes species to achieve this. I do not think the development of the site will directly impact on the important boundary trees, but despite a soft landscape scheme and ecology report being provided, there does not appear to be any information relating to tree protection. This is quite pertinent to the site access where there are trees directly adjacent to this. Details of how the trees are to be protected from construction pressures during the build would need to be provided. Whilst the trees on the remainder boundaries are far enough away, a barrier would need to be set up to contain development activities impacting on them.</p> <p>The trees at the entrance form an important part of the street scene so would not want to see them lost at a later date if this element of the construction had not been considered sooner. If it is felt this detail cannot be left to be addressed via a condition, then they would need to provide information up front to show that these trees can be protected and retained, even if this means smaller piling rigs etc are to be used.</p> <p>A tree protection method statement in accordance with</p>	

Name of Internal Consultee	Comment	Officer Response
	BS5837:2012 would be required, focusing on how the trees to the frontage will be retained and protected, as well as those on the boundaries.	

7.5 Representations received from Interested Parties

7.5.1 **Six** letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
<p>The proposed development is not within a sustainable location and design and access statement appendix 2 makes this clear advising the following:</p> <ul style="list-style-type: none"> - It is not within the settlement boundary - It would make a negligible contribution to the Districts housing supply - There would be little support for local trade and only has minor benefits to existing services - The occupiers would be reliant on private motor vehicles weighing against the proposal in environmental terms 	<p>Comments noted and are discussed in section 5.1, 5.2 and 5.7 of this report</p>
<p>Appendix 2 of the design and access statement goes on to advise that weight should be given to the Council's previous decisions within the vicinity of the site. This is questionable as each application must be considered on its own merits</p>	<p>Comments noted, and this is discussed within section 5.1 of this report. Previous decisions by the Council are a material consideration in the determination of any planning application.</p>
<p>The Council has refused a number of applications within the vicinity of the site on sustainability grounds. The Old Rector, Little Hill Farm and Glebe Farm House and Orchard Way.</p>	<p>Comments noted and each of these applications are discussed in section 5.9 of this report</p>
<p>Reference is made to the development allowed at Fernbrook Hall – this decision was very flawed and should be disregarded. At the meeting the senior planning officer argued that Councillors were not abiding by the rules.</p>	<p>Comments noted, and this is discussed within section 5.1 of this report. Reference to the senior planning officers' comments in the previous meeting took place during the debate and were to act as a guide and provide professional advice to members, however, the decision has been made and this is not the appropriate arena to discuss any issues with committee decision making process. Previous decisions by the Council are a material consideration in the determination of any planning</p>

Objection Comment	Officer Response
	application.
The Parish Council wrote to MDC to complain about the decision at Fernbrook Hall and the way it was taken without due regard to planning policies and rules. A group of residents have also raised a formal complaint to the local ombudsman	This is not the appropriate arena to discuss any issues with committee processes.
There are no exceptional circumstances which weigh in favour of the application	Comments noted.
The application must be refused as it does not meet the policy requirements of the VDS, the Neighbourhood Plan the LDP or the NPPF	Comments noted and discussed throughout the report
The Applicants claim that they are leaving a legacy but this is a smoke screen whereby they are gaining permission to build a house on land and make money and move on	Comments noted.
Permission has been refused before so why is this different.	Comments noted, this is dealt with in paragraph 5.10 of this report
The mess by other projects down the land has never been repaired, the land becomes a skating ring with the mud left by lorries, it took 5 years for the Lane to be repaired after the last house renovation, where will the lorries be entering the site if approved, where will the portacabin be placed	Comments noted. Essex County Council Highways have raised no concerns in relation to the application and a condition is recommended to ensure all construction traffic and materials is stored within the site. The application does not include any reference to a portacabin.
The development is contrary to neighbourhood plan, outside the village boundary, would necessitate a change of use from agricultural to residential, unsustainable location and the curtilage contravenes the village design statement.	Please see section 5.1.
Concerns over impact on neighbours.	Please see section 5.4.
Concern over sustainability of the development.	Please see section 5.7.
Concern over noise impact on wildlife.	Please see section 5.9. In relation to noise from the proposed use, the development of one dwelling on the site is not considered to impact on neighbours to an extent that would justify the refusal of the application. Any impact from construction noise is not a material planning consideration.
There is a restrictive covenant on the land.	This is not a planning consideration.
Concerns over where the site notice was place.	Comments noted, the site notice was place near the site.
Comments regarding the motivation of the application.	Comments noted.
Note the previous applications on the site.	Comments noted.

7.5.2 **Twenty-Two** letters were received **in support** of the application and the reasons for support are summarised as set out in the table below:

Supporting Comment	Officer Response
The proposed property would fit well in Mope Lane and would be an enhancement to the area/neighbouring properties	Comments noted and discussed within section 5.3 of this report
The proposal offers a creative and sensitive site development that is of a scale and design that is extremely appropriate to and in keeping with those already built within Mope Lane	Comments noted and discussed within section 5.3 of this report
The proposed development would be a major improvement to the site as it is currently	Comments noted
The proposed development would benefit the local area and environment through apple tree planting, wildlife pond and a modest low impact property	Comments noted and discussed within section 5.3 of this report
This is an exciting example of what future applications should encompass -eco-build, climate friendly landscaping all of which would make a welcome contribution to the varied architecture of Mope Lane	Comments noted
The built form would occupy less than 5% of the land which reflects the aspirations of the Neighbourhood plan	Comments noted
The green credentials of the plan are inspiring. Great thought has gone into this to protect the environment and impact on other properties	Comments noted
Planting of tree will assist in the control of excess rain water.	Comment noted

8. **PROPOSED CONDITIONS**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 2019/loc01, 2019/02, 2019/03, 2019/04, 2019/05, 2019/06, 2019/07 and 2019/08
REASON: To ensure that the development is carried out in accordance with the details as approved.
- 3 The materials used in the construction of the development hereby approved shall be as set out within the application form/plans hereby approved.
REASON: In the interest of the character and appearance of the area in accordance with policy D1 of the approved Local Development Plan and guidance contained within the National Planning Policy Framework.
- 4 Prior to the occupation of the dwelling hereby approved, full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved.
These details shall include, for example:
 - i. Proposes finished levels contours;
 - ii. Hard surfacing materials;
 - iii. Planting details.
 The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation

of the development unless otherwise agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

The hard landscape works shall be carried out as approved prior to the first use/ occupation of the development hereby approved and retained and maintained as such thereafter.

REASON: In the interests of local amenity in accordance with the requirements of policies D1 and H4 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.

- 5 No development works above ground level shall occur until details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:

- 1) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
- 2) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield)

You are advised that in order to satisfy the soakaway condition the following details will be required: details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled.

Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.

REASON: To ensure the incorporation of an appropriate surface water drainage scheme in accordance with policy D2 of Maldon District Local Development Plan.

- 6 No development works above ground level shall occur until details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.

REASON: To ensure the incorporation of an appropriate foul water drainage scheme in accordance with policy D2 of Maldon District Local Development Plan.

- 7 Prior to occupation of the dwelling hereby approved, the upgraded vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway as shown in principle in the Block Plan Layout drawing 2019/03

REASON: In the interest of pedestrian and highway safety, in accordance with policy T2 of the LDP.

- 8 There shall be no discharge of surface water onto the Highway.

REASON: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy T2.

- 9 All loading / unloading / reception and storage of building materials and the manoeuvring of all vehicles, including construction traffic shall be undertaken within the application site, clear of the public highway

REASON: In the interest of pedestrian and highway safety during construction works, in accordance with policy T2 of the LDP

- 10 There should be no obstruction above ground level within a 2.4m parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

REASON: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy T2 of the LDP

- 11 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (T4 Ecology Ltd, June 2021). All mitigation and enhancement measures shall be provided within the identified times frames within the Preliminary Ecological Appraisal (T4 Ecology Ltd, June 2021) or where no timeframes are stated within six months of first occupation of the dwelling hereby approved. The mitigation and enhancement measures shall be retained in perpetuity.

REASON: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with policy N2 of the LDP and the guidance contained within the NPPF.

- 12 A Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the local planning authority following the recommendations made within the Preliminary Ecological Appraisal (T4 Ecology Ltd, June 2021). The content of the Biodiversity Enhancement Strategy shall include the following:
- a) Purpose and conservation objectives for the proposed enhancement measures;
 - b) detailed designs to achieve stated objectives;
 - c) locations of proposed enhancement measures by appropriate maps and plans;
 - d) persons responsible for implementing the enhancement measures;
 - e) details of initial aftercare and long-term maintenance.

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter

REASON: To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with policy N2 of the LDP and the guidance within the NPPF.

- 13 Prior to occupation of the dwelling a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

REASON: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with policy N2 of the LDP and the guidance within the NPPF.

- 14 Prior to the commencement of development, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

REASON: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with policy S1, D1 and N2 of the LDP and the guidance contained within the NPPF.

- 15 No operations shall commence on site, including any site clearance or groundworks, unless and until a tree protection method statement, prepared in accordance with BS5837:2012, has been submitted to and approved in writing by the local planning authority. The statement is to include a tree protection plan and ground protection measures for all those trees and areas of vegetation shown as being retained on drawing No 2019|03 and supporting information plan 001 C. Development shall be carried out in accordance with the measures set out in the approved statement during the construction period. No trees or vegetation retained pursuant to this condition shall be cut down, removed or uprooted without the prior written approval of the local planning authority.

REASON: To protect the health of the trees in the interest of the character and appearance of the area in accordance with policy D1 of the LDP.

INFORMATIVES

1. The applicant should consult the Waste and Street Scene Team at Maldon District Council to ensure that adequate and suitable facilities for the storage and collection of domestic waste and recyclables are agreed, and that the site road is constructed to accommodate the size and weight of the Council's collection vehicles.
2. Should the existence of any contaminated ground or groundwater conditions and/or hazardous soil gases be found that were not previously identified or not

considered in a scheme agreed in writing with the Local Planning Authority, the site or part thereof shall be re-assessed and a scheme to bring the site to a suitable condition shall be submitted to and agreed in writing with the Local Planning Authority. A "suitable condition" means one in that represents an acceptable risk to human health, the water environment, property and ecosystems and scheduled ancient monuments and cannot be determined as contaminated land under Part 2A of the Environmental Protection Act 1990 now or in the future. The work will be undertaken by a competent person in accordance with the Essex Contaminated Land Consortium's Land Contamination Technical Guidance for Applicants and Developers and UK best-practice guidance.

3. The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours:
 - a) No waste materials should be burnt on the site, instead being removed by licensed waste contractors;
 - b) No dust emissions should leave the boundary of the site;
 - c) Consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
 - d) Hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.

Where it is necessary to work outside of these recommended hours the developer and builder should consult the local residents who are likely to be affected and contact the Environmental health Team for advice as soon as the work is anticipated.

4. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: SMO2 - Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford, CM2 5PU.

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
NORTH WESTERN AREA PLANNING COMMITTEE
14 JULY 2021

Application Number	21/00594/FUL
Location	Barns Adjacent To Mosklyns Farm, Chelmsford Road, Purleigh, Essex
Proposal	Partially retrospective alterations to barn, conversion to a dwellinghouse and associated works.
Applicant	Mr And Mrs Robert & Susan Strathern
Agent	Mr Mike Otter - GPO Designs Ltd
Target Decision Date	22.07.2021
Case Officer	Anna Tastsoglou
Parish	PURLEIGH
Reason for Referral to the Committee / Council	Member Call In by Councillor Mrs J L Fleming Reason: D1A, D1E, S1. 12, S8

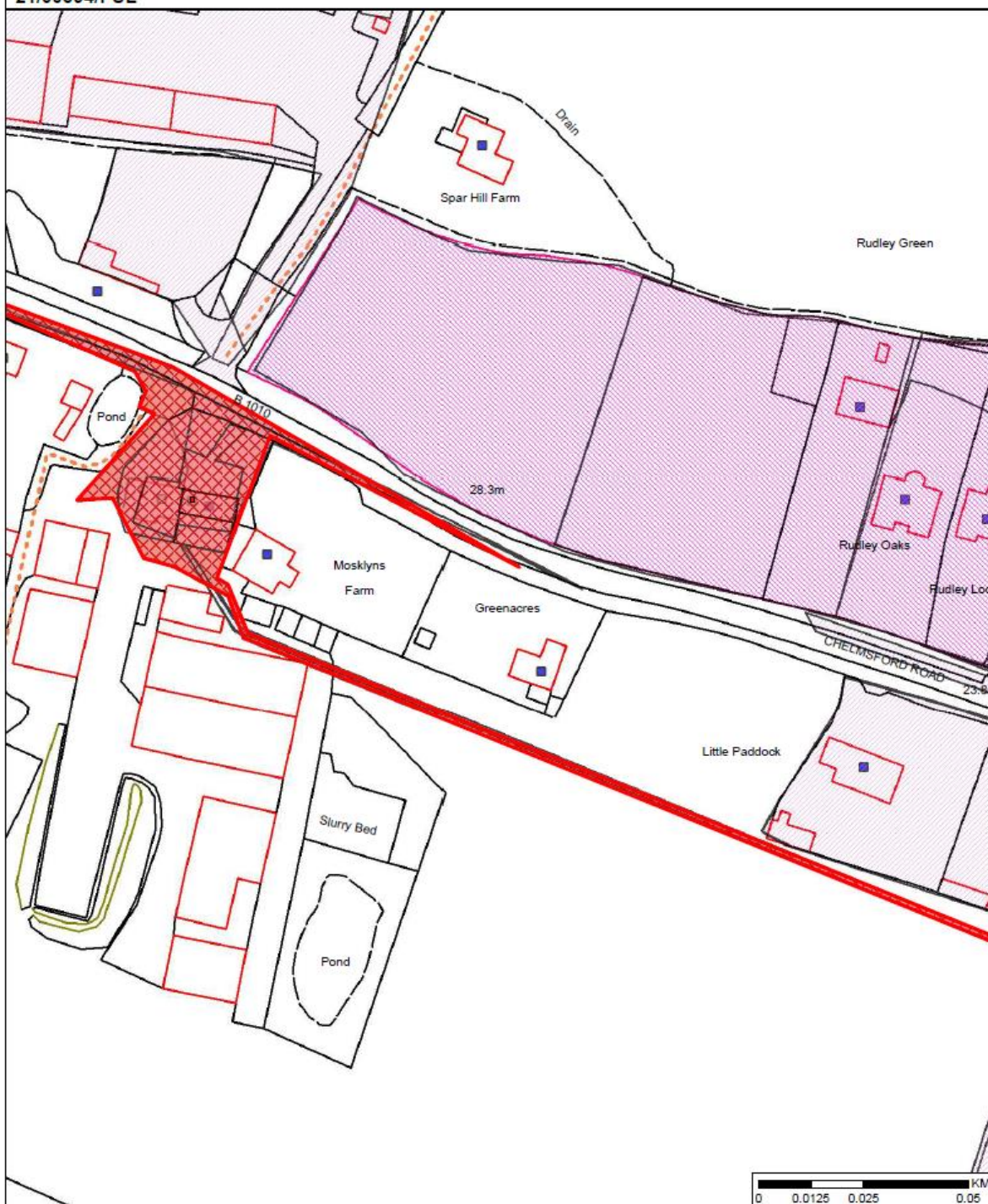
1. RECOMMENDATION

REFUSE for the reasons as detailed in Section 8 of this report.

2. SITE MAP

Please see below.

North Western Committee
21/00594/FUL



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Maldon District Council 100018588 2014

www.maldon.gov.uk

Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: Not Set

Date: 15/06/2021

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located outside of any development boundary, in a rural setting, to the northwest of the village of Purleigh. Mosklyns Farm is located on the southwestern side of Chelmsford Road and comprises of the farmhouse and a farmyard containing a number of large agricultural buildings.
- 3.1.2 The barn to which this application relates is a timber boarded barn, previously used for agricultural storage in association with the established farm, located to the northwest of the farm and accessed from an existing access to the north of the dwelling. This barn is two storey in nature and is adjoined to a single storey barn to the eastern side, the latter of which was granted planning permission on the 11th February 2021 following a reconsidered application at the North West Planning Committee of the 10th February 2021 under the terms of application 20/01154/FUL. Works had begun on site following the previously granted prior approval application 15/01096/COUPA, these have resulted in the barn, the subject of this application being partially completed.
- 3.1.3 The application is therefore partially retrospective as consideration is also sought for the works carried out in addition to new works, and as such seeks permission for the conversion of a former agricultural building to a residential dwelling. It is noted that a similar application, reference number 21/00211/FUL, for a partially retrospective application to convert the barn to a dwellinghouse with associated works was previously refused on the 4th May 2021 for the following reasons:
1. *The proposed development, by reason of its location and design would substantially alter the character of the area and have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site. As such the proposal is contrary to the National Planning Policy Framework's "presumption of sustainable development". The poor sustainability credentials of the site and its locality would significantly and demonstrably outweigh the benefits of the proposal when assessed against the compliant policies of the Maldon District Local Development Plan (2017) including policies S1, S8, D1 and H4 and Government advice contained within the National Planning Policy Framework (2012).*
 2. *In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, and I1 of the Maldon District Local Development Plan and the NPPF.*
- 3.1.4 Prior approval was granted for similar works under application 15/01096/COUPA. It must be noted that Application 15/01096/COUPA permitted the change of use of two barns from agricultural to dwellinghouses, including the barn to which this application relates. Conditions 1 and 2 of application 15/01096/COUPA stated:

Condition 1:

'The development hereby approved must be completed within a period of 3 years starting with the prior approval date.'

Condition 2:

'The development hereby permitted shall be carried out in complete accordance with the approved drawings specifically referenced on this decision notice.'

- 3.1.5 Whilst some development has been undertaken, the development as a whole, is uncompleted under the requirements of the Prior Approval application (COUPA), and as such fall foul of the time restriction of condition one. Therefore, this application seeks to regularise the external works carried out to the barn, the subject of this application, and gain permission for the conversion of the building to a dwelling house. Furthermore, minor alterations are shown to the submitted plans in comparison to the plans approved under the terms of 15/01095/COUPA (replacement of a door with a window to the front elevation, addition of door and relocation of first floor window to the western side elevation and removal of bi-fold doors and replacement with a window, relocation of window and door and an additional window to the rear elevation)
- 3.1.6 It is proposed that the amenity space would be located to the south and west of the dwellinghouse. The existing 1.2 metre post and rail fence to the western boundary is to remain and it is proposed to construct a new 1.2 metre fence to match the existing to the eastern boundary. A 1.5 metre high timber fence is proposed to be installed to the south of the site.
- 3.1.7 A cycle storage area is proposed to be erected on the southeastern corner of the application site and would have a maximum height of 2.5 metres, a width of 2.4 metres and a depth of 1.8 metres. A refuse storage area is proposed adjacent to the cycle store.
- 3.1.8 It is also proposed to utilise the formalised footpath for private use to the south of the site approved under the terms of 20/01154/FUL, this would run in an easterly direction through the fields associated with the Farm to join the existing public footpath on Chelmsford Road. Within the applicants supporting information is stated that the footpath will be an all weathered footpath and that a handheld torch and umbrella will be provided.
- 3.1.9 Vehicle access to the site will be gained via Chelmsford Road which along the northern boundary of the site. Three parking spaces are proposed to be formed to the north of the building. The existing access road onto Chelmsford Road would be retained.

3.2 Conclusion

- 3.2.1 The application seeks to regularise part of the originally implemented Prior Approval scheme which has not been completed within the time period or in accordance with the details approved as the approval has expired. As such, the prior approval has fallen away and the development is now unauthorised. The criteria for the determination of a Prior Approval scheme is under Permitted Development legislation and as a result its principle, form and nature is not that of a development that would be considered under Section 38 of the Town and Country Planning Act (a planning application subject to the Local Development Plan (LDP) policies and other material considerations). As such, under this planning application, the development fails to comply with Development Plan policies and those policies within the National Planning Policy Framework (NPPF). Specifically, the development is considered unacceptable due to its poor sustainability credentials and unacceptable appearance which represents harm to the countryside. The proposal is therefore contrary to

policies S1, S8, D1 and H4 of the LDP and guidance contained within the NPPF. Furthermore, a previous application for a similar form of development was refused planning permission by the Council. Whilst the approval at the adjoining site is a material consideration for the determination of this application it is not considered to outweigh the conflict with the development plan highlighted below or the material consideration that is the planning history of the site.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2019 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47–50 Determining applications
- 54–57 Planning conditions and obligations
- 59–79 Delivering a sufficient supply of homes
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places

4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide (MDDG) SPD
- Maldon District Vehicle Parking Standards (VPS) SPD

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The Council is required to determine planning applications in accordance with its LDP unless material considerations indicate otherwise. This is set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990)), and through Government policy, at paragraph 47 of the NPPF;

5.1.2 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the

housing requirements for the next five years; this is known as the Five Year Housing Land Supply (5YHLS).

- 5.1.3 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the 'Tilted Balance'. This position is set out in paragraph 11d, together with its footnote 7, of the NPPF which states:

"For decision making this means:

"(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

"(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or

"(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

'Footnote 7 - 7 This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73)

- 5.1.4 At the heart of the NPPF is a presumption in favour of sustainable development (the 'presumption') which is central to the policy approach in the Framework, as it sets out the Government's policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37)
- 5.1.5 It is necessary to assess whether the proposed development is 'sustainable development' as defined in the NPPF. If the site is considered sustainable then the NPPF's 'presumption in favour of sustainable development' applies. However, where the development plan is 'absent, silent or relevant policies are out-of-date', planning permission should be granted 'unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted'
- 5.1.6 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.
- 5.1.7 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 re-iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. Policy S1 allows for new development within

the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be 'sustainable development' through the three dimension tests of the NPPF' the LPA are obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme.

5.1.8 Paragraph 78 of the NPPF states that:

'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby'

5.1.9 The application site is located approximately 712 metres beyond the defined settlement boundary for Purleigh, within the countryside. Purleigh is classed as a smaller village; containing few or no services and facilities, with limited or no access to public transport and very limited or no employment opportunities. It is therefore considered that the occupiers of the dwelling would be required to travel using a private vehicle outside of Purleigh for day to day services and facilities. It is noted that within the supporting information provided as part of this application there is information about bus services. Whilst it is noted that the bus route map shows the route as stopping at Spar Lane, which is the nearest bus stop to the application site, this is not reflected on the bus timetable. The D1 and D2 service offers a fairly regular service to Maldon and Southminster via the D1 and D2 routes, but the closest bus stop to the site as per the timetable is the Purleigh Post Office which is located approximately 1450 metres from the application site. The applicant has submitted correspondence with the Hedingham Buses Manager confirming that bus drivers would be expected to stop at Spar Lane bus stop upon request. This would involve occupiers walking 220 metres along an unlit country path to the formalized footpath to the east of the site. It is noted that the applicants are willing to create an all weather footpath, as approved under the terms of 20/01154/FUL, through the fields to allow safer access to the formalized path, and have sought to overcome concerns raised previously by providing a handheld torch and umbrella. The proposal would therefore result in two households being reliant to access facilities and public transport through an unformalized footpath. Although this footpath was previously accepted under the terms of application 20/01154/FUL as a solution to avoid pedestrians walking along Chelmsford Road which in this section has no pedestrian footpath, in no circumstances could be considered as the most suitable way to access everyday facilities and services. It should be also noted that this would add a further 80 metres on to the journey of the future occupants to access facilities. On that basis, it is considered that the future occupiers of the dwelling would not have easy access to public transportation and therefore, would be mainly dependent on private modes of transport to meet their everyday needs.

5.1.10 The current proposal is partially retrospective in nature; in relation to the retention of the external works that have taken place to convert the barn to a dwelling under the previously approved application (15/01096/COUPA). As detailed above these works have not been completed in accordance with the time condition. The weight attributed to a material consideration is up to the decision maker, but it is a point of planning law that the ability to comply with the requirements of a permission, or in this case lack of ability to, substantially affects the weight that should be attributed to it.

- 5.1.11 An application for prior approval is an assessment against set criteria contained within Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), which relates to whether or not a development could gain deemed consent. Given that the whole of the development is not completed and the differences between the prior approval application and this application, an application for full planning permission is therefore required for the works and has been submitted. Therefore, as this application is not for prior approval it is necessary for the Council to assess the proposal against the policies contained within the Maldon District Local Development Plan (MDLDP) and guidance contained within the NPPF and MDDG. Furthermore, the previous prior approval application does not mean that the principle of the development has been accepted. The starting point for consideration of a prior approval application is not the development plan. Conflicts with the Plan and Government Guidance are not material to the determination of a prior approval application. Therefore, this assessment is materially different to the assessment of a planning application whereby the starting point is the Development Plan.
- 5.1.12 As highlighted above, a prior approval application (15/01096/COUPA) was previously granted on the 2nd December 2015 for the conversion of the barns to residential accommodation. This was subject to conditions, including condition 1 which stated that the development approved must be completed within a period of 3 years starting with the prior approval date. To date, the development is incomplete, awaiting the installation of windows and doors. It should be noted that a further prior approval application was submitted on 6th November 2019 (19/01162/COUPA) which sought to extend the time limit condition. However, this application was refused; *“planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made” (PPG)*. Whilst the condition imposed under 15/01096/COUPA does not restrict the time limit for when the development can be started per se, there is no such condition within the prior approval process, it does restrict the timeframe for the undertaking of the development. This is similar in nature to the time limit condition required through the granting of a planning application and the principle of such a restriction on the variation of the S73 conditions should be considered in a similar vein. Therefore, given that the development is incomplete, the prior approval permission has fallen away, there is no fall-back position and planning permission is required.
- 5.1.13 In addition, condition 2 stated that the development shall be carried out in complete accordance with the approved drawings. When the agricultural buildings were altered and converted for residential accommodation the development was not carried out in accordance with the approved plans and therefore contrary to condition 2. The discrepancies between the approved plans and the development as implemented are outlined above. It is an accepted point of case law that approval is required prior to the works being undertaken. Therefore, given that the development did not comply with the approved scheme and that the majority of the work has been undertaken, the prior approval permission has fallen away. Therefore, as previously stated, there is no fall-back position and planning permission is required.
- 5.1.14 This stance is further supported by a recent appeal decision (APP/X1545/W/18/3216373) which was dismissed. This was related to a section 73A application for the change of use of barns to three dwellinghouses. This appeal decision relates to a development carried out which was not in accordance with the plans as approved by the prior approval application (similar to that of this current application) and therefore, the Inspector determined that the previously granted prior

approval provided no fall-back position for residential development on the site. This is explained in more detail below.

- 5.1.15 Point 26 of the appeal decision states; *'The prior approval scheme was not commenced and then carried out. The three year time limit for completion of the prior approval scheme has not and cannot be met. That being the case the prior approval is no longer extant'*. As is the case with the dwelling the subject of this application, the development the subject of the appeal had not been carried out in accordance with the plans as approved by the prior approval. The Inspector concluded that the prior approval was no longer extant and, as such, did not form a basis for the principle of residential development in this location, as is the case with the current application.
- 5.1.16 Point 71 of the appeal decision states; *'A prior approval under the GPDO for a material change of use under Class Q is for a specific proposal that does not fall within any of the exceptions or limitations and which meets all the stated conditions. Unlike an outline planning permission, the prior approval did not establish the acceptability of a residential use on the appeal site and allow for details to be submitted at a later date.'* This point provides further clarification in relation to the purpose of a prior approval application under Class Q. The principle of the development of the site and the sustainability of a site are not considerations (let alone material considerations) under a prior approval application and therefore any prior approval application does not result in the principle of a residential use of the site or the sustainability of the site being accepted. This is the distinct and fundamental difference between development under a Development Order to which policies and guidance do not apply, and development by virtue of a planning permission in accordance with the Development Plan (Local Plan) and the NPPF 2019. Furthermore, as stated above, due to the prior approval application no longer being extant, there is no fall-back position for the use of the site as residential in the form which was approved. Again, and to be clear, no principle exists for the use of the site as residential under a prior approval application.
- 5.1.17 Point 73 of the appeal decision states; *'The 2016 prior approval has no weight and is not a factor that weighs in favour of the built development.'* *'There is no valid fallback position.'* As previously stated, this is considered to be the same circumstances as the development the subject of the application before Members.
- 5.1.18 It is noted that the adjoining barn to the east of the application site was granted planning permission under the terms of application 20/01154/FUL for the following reasons:
- 'Since the determination of the last planning application the Council is no longer able to demonstrate a 5 Year Housing Land Supply. This is considered to weigh in favour of the proposed development. Furthermore, the previous reason for refusal regarding private amenity space has now been overcome. It is not considered that the new material consideration would alter this resolution and therefore, the scheme should be approved in accordance with the conditions as recommended.'*
- 5.1.19 The determination of the application referred above is a material consideration in the determination of the current application, given the similarities between the two sites and applications. However, this is not considered to outweigh the above explained conflict with the adopted policies or the refusal of the previous applications 21/00211/FUL and 20/00310/FUL in relation to this property.
- 5.1.20 As outlined above, it is considered that the site is poorly connected by means of sustainable transport and facilities. Furthermore, the previous prior approval decision

is no longer extant, and the development remains incomplete. Therefore, the previous decision does not provide a fall-back position and the principle of development would be unacceptable at this site unless material considerations outweigh this presumption and weigh heavily in favour of the application proposal.

- 5.1.21 Furthermore, it is considered pertinent to note that point 84 of the above mentioned appeal decision states; *'The final element of Policy S1 in effect adopts the tilted balance expressed in the Framework. The most recent annual update of the District's five year housing land supply shows a slight shortfall at 4.90 years. This follows on from the years when a five year supply of deliverable housing sites has been demonstrated. A comparison of the position in 2019/20 with 2018/2019 indicates that the change is part due to a reduction in anticipated supply from major sites of 10+ dwellings and strategic allocations. Small sites and windfalls are in a healthy position. The record on completions shows an upward trend. With these factors in mind I attach limited weight to the identified shortfall in this case.'* As stated above, members attached significant weight to the Council's inability to demonstrate a 5YHLS. However, the findings of the Inspectorate are wholly different to this whereby due to the limited shortfall and overall upward trend of completions, limited weight should be afforded to this. It is also pertinent to note that the appeal properties were occupied at the time of the decision, and their circumstances and human rights were taken into consideration by the Inspector. The current application site is not occupied and as such, human rights is not a consideration that would weigh in favour of the development.
- 5.1.22 The current proposal follows the refusal of application 21/00211/FUL. As stated above, no changes have been incorporated into the current proposal, with the exception of the parking arrangement to the north of the proposed dwelling, which was not a reason for refusing the application. Taking into account that the planning history of the site has not altered or the proposal itself, there is no material reason to recommend approval of the current application.
- 5.1.23 In light of the above assessment, it is not considered that the principle of providing a dwelling in this location is founded.

5.2 Housing Need and Supply

- 5.2.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position, the NPPF states that Local Authorities (LA's) should consider applications for new dwellings in the context of the presumption in favour of sustainable development, and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.
- 5.2.2 Whilst the LDP carries limited weight at present due to the lack of a 5YHLS and consequent impact on its housing delivery policies in particular (including those policies which define settlement boundaries), the NPPF is clear that housing should be provided to meet an identified need.
- 5.2.3 The proposal would provide one new three-bedroom dwelling. Policy H2 of the LDP contains a policy and preamble (paragraph 5.2.2) which, when read alongside the evidence base from the Strategic Housing Market Assessment (SHMA) shows an

unbalanced number of dwellings of three or more bedrooms, with less than half the national average for one- and two-bedroom units. The Council therefore, encourages, in policy H2, the provision of a greater proportion of smaller units to meet the identified needs and demands. The Council's updated SHMA, published in June 2014 identifies the same need requirements for 60% of new housing to be for one- or two-bedroom units and 40% of housing to be for three-bedroom plus units. Therefore, in this instance the benefits of the scheme in this regard would be negligible as there would be a net gain of one dwelling and therefore, this is given minimal weight.

5.3 Design and Impact on the Character of the Area

5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.

5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

"The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities".

"Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account local design standards, style guides in plans or supplementary planning documents".

5.3.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- b) Height, size, scale, form, massing and proportion;
- c) Landscape setting, townscape setting and skylines;
- d) Layout, orientation, and density;

5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).

5.3.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.

- 5.3.6 The application site is visible from the public realm and is therefore considered to impact on the character and appearance of the site and surrounding area. Prior to the conversion that has taken place, the building within the site was of a typical agricultural character and appearance. It is considered that the alterations involved in the conversion of the building to residential have been carried out in a sympathetic manner. The overall character of the building has not materially changed; the external materials remains similar to the original barn, with the form and design of the building remaining unaltered. Therefore, it is not considered that the design of the dwelling would result in a significant detrimental impact on the character and appearance of the site or the surrounding area
- 5.3.7 The current application proposes additional alterations to the external appearance of the barn, to those approved under the prior approval process, which would give the resulting dwelling a more domestic appearance. Furthermore, the visual impact of the domestic paraphernalia associated with the dwelling, car parking arrangements and the hardstanding proposed would result in an unacceptable level of domestication within the countryside. The applicant has submitted photographs showing the northern part of the application site, which currently does not benefit from any form of landscaping and is mainly occupied by construction machinery and materials. Although it is accepted that the current appearance of the site is not attractive, this is a temporary situation and it does not set a precedent of the acceptability of the level hardstanding proposed. Therefore, it is considered the proposal would result in an urbanising effect and detract from the rural character of the area and would not represent a visual improvement of the site and surrounding countryside.
- 5.3.8 Having regard to the above, it is considered that the proposal would result in an intensified level of domestication at the application site, within the countryside, that would result in material harm to the character and appearance of the surrounding countryside.

5.4 Impact on Residential Amenity

- 5.4.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.4.2 The application site is bordered by two neighbouring properties. To the east is the residential dwelling known as September Barn and to the west is Ramblers Cottage. The proposed development would result in increased levels of activity, by reason of the erection of an additional dwelling. However, it is not considered that the proposed residential development would have a materially harmful impact on the residential amenity of the neighbours, in terms of noise and disturbance, given the nature of the use, which is compatible with the use of the existing residential area.
- 5.4.3 The proposed development would sit on the shared boundary with the neighbouring property to the east. As there is no increase in the external dimensions of the structure as part of the application it is not considered that the proposed development would result in an unacceptable loss of light or that the works would have an overbearing impact on this neighbouring property. There is one first floor window proposed to the rear elevation of the proposed dwelling, however this is on the gable projection and whilst it would offer limited views of the southern most point of the neighbouring amenity space it is not considered that this would result in an unacceptable loss of privacy to this neighbouring property.

- 5.4.4 The proposed development would sit 10 metres away from the shared boundary with Ramblers Cottage and over 20 metres from the neighbouring property. It is noted that there is one first floor window proposed to the western side elevation facing this neighbouring property. However, due to this substantial degree of separation, it is not considered that the proposed development would represent an unneighbourly form of development in relation to this neighbouring property.
- 5.4.5 For the reasons stated above, it is not considered that the proposal will result in any unacceptable harm by way of overlooking, loss of light or loss of privacy nor is it considered that the development would be overbearing or result in unacceptable noise impacts.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.5.2 The proposed development would result in a three bedroom dwellinghouse. The minimum parking provision required is three spaces. It is shown on the block plan provided that there would be adequate hardstanding to the front of the site to accommodate parking provision for a minimum of three vehicles. The spaces shown are in line with the minimum required size standards within the SPD. Following amendments from the previously refused application 21/00211/UL, the parking arrangement has been altered so that the parking spaces would be situated in a tandem and side by side arrangement. It is considered that this is an appropriate parking arrangement and provision that meets the requirements of the SPD.
- 5.5.3 The proposal would also provide storage area for bicycles and one vehicle charging point in accordance with standards as set out in the Vehicle Parking SPD.
- 5.5.4 Access to the dwelling would be gained from the existing access to the north of the dwelling from Chelmsford Road. Although no consultation response has been received from the Highway Authority (HA) at the time of writing this report, it is noted that no objection to the access or conditions were recommended for application 21/00211/FUL which was for the same proposal. Therefore, it is not considered that the development would be detrimental to highway safety in terms of the access.

5.6 Private Amenity Space

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.
- 5.6.2 The block plan provided as part of this application shows that the amenity space would be located to the rear and western side of the dwelling and would measure approximately 92m² (not taking into account the cycle and waste storage areas), and falls short of the requirement for 100m² of private amenity space recommended for a

three bedroom dwelling. However, this is considered to be a minor shortfall that would not result in an unacceptable living conditions for future occupiers of the barn.

5.7 Other Matters

- 5.7.1 Within the NPPF there is a presumption in favour of sustainable development (the 'presumption') which is central to the policy approach in the Framework, as it sets out the Government's changes to the planning system and emphasises the need to plan positively for appropriate new development. In this regard, there are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. This is carried through to local policies via policy S1 of the LDP which emphasises the need for sustainable development.
- 5.7.2 In economic terms, given that the development would only involve limited construction works, the benefits would have been extremely limited given the scale of the development, the economic benefits of the proposal are therefore considered minimal. Due to the limited provision of local businesses, shops and services and the minor nature of the development there would be a limited increase in footfall or economic benefit to the area.
- 5.7.3 In social terms, development should assist in supporting a strong vibrant and healthy community. The application site lies in excess of 700 metres of the defined development boundary of Purleigh and approximately 1450 metres from bus services to Maldon, which are infrequent and access to local services are very limited. As such, the site is considered remote from services needed for day to day living and any future occupiers of the site would be heavily reliant on the use of private vehicles to access everyday facilities contrary to the guidance contained within the NPPF and policies S1, S8 and T1 of the LDP. It is acknowledged that the use of a private footpath through the farm is available to the Applicant however this alone is not considered to result in the sustainability of the site.
- 5.7.4 It is noted that as part of the application information has been provided in relation to the sustainability of the site. This includes transport and walking routes documents, as well as correspondence with the bus service provider. Furthermore as part of the previously refused application, a sustainability score card was submitted; however, this supporting document contribute limited weight in the determination of this application as the outcome of the sustainability scorecard relied on the answers input by the Applicant and it is noted that the answers were very generous and did not necessarily reflect the true character and nature of the application site. Furthermore, although confirmation from the bus service provider has been submitted confirming that buses will stop at Spar Lane upon request it is noted that the future occupiers would be required to walk approximately 220 metres along an unpaved, unlit road until they reached the formal footpath along Chelmsford Road, or utilising the private footpath approved under the terms of application 20/01154/FUL. However, it is not considered that this alone would make the site sustainable.

5.8 Ecology regarding development within the Zone of Influence (Zoi) for the Essex Coast RAMS.

- 5.8.1 Paragraph 170 of the NPPF states that '*Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity.*'
- 5.8.2 Strategic LDP policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.

- 5.8.3 In terms of off-site impacts, Natural England (NE) have advised that this development falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council (MDC), working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. NE advise that MDC must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.
- 5.8.4 NE has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary Special Protection Area (SPA) and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational Zol of these sites cover the whole of the Maldon District.
- 5.8.5 NE anticipate that, in the context of the LPA's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these Zol constitute a likely significant effect on the sensitive interest features of these designated sites through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), Houses in Multiple Occupation (HMOs), student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.8.6 Prior to the RAMS being adopted, NE advise that these recreational impacts should be considered through a project-level HRA – NE has provided a HRA record template for use where recreational disturbance is the only HRA issue.
- 5.8.7 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, NE does not provide bespoke advice. However, NE's general advice is that a HRA should be undertaken and a 'proportionate financial contribution should be secured' from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s) targeted towards increasing the site's resilience to recreational pressure and in line with the aspirations of emerging RAMS and has currently been set at £127.30 per dwelling.
- 5.8.8 To accord with NE's requirements, an Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, as follows:

HRA Stage 1: Screening Assessment – Test 1 - the significance test

Is the development within the zone of influence (Zol) for the Essex Coast RAMS with respect to the previously listed sites? Yes (Blackwater Estuary SPA and Dengie SPA)

Does the planning application fall within the specified development types? Yes

HRA Stage 2: Appropriate Assessment- Test 2 – the integrity test

Is the proposal for 100 houses + (or equivalent)? No

Is the proposal within or directly adjacent to one of the above European designated sites? No.

Summary of Appropriate Assessment - as a competent authority, the Local Planning Authority concludes that the project will, without mitigation, have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account Natural England's advice, it is considered that mitigation, in the form of a financial contribution of £127.30 is necessary.

- 5.8.9 It is noted that in the absence of a formal legal agreement the appropriate mitigation has not been secured.

6. ANY RELEVANT SITE HISTORY

6.1.1 The relevant planning history is set out in the table below:

Application Number	Description	Decision
15/01096/COUPA	Change of use of two existing barns from agricultural to dwelling houses	Prior Approval Granted
19/01162/COUPA	Variation on condition 1 & 2 approved planning permission COUPA/MAL/15/01096 Change of use of two existing barns from agricultural to dwelling houses	Prior Approval Refused
20/00310/FUL	Conversion of barn and cartlodge to 2 new dwellings	Refused
20/01154/FUL (should be noted this relates solely to the barn attached to the eastern elevation of the barn the subject of this application)	Retention of existing dwelling.	Approved
21/00211/FUL	Partially retrospective alterations to barn and conversion to dwellinghouse and associated works	Refused for the following reasons: 1. The proposed development, by reason of its location and design would substantially alter the character of the area and have an unacceptable visual impact on the countryside through the urbanisation and domestication of

Application Number	Description	Decision
		<p>the site. As such the proposal is contrary to the National Planning Policy Framework's "presumption of sustainable development". The poor sustainability credentials of the site and its locality would significantly and demonstrably outweigh the benefits of the proposal when assessed against the compliant policies of the Maldon District Local Development Plan (2017) including policies S1, S8, D1 and H4 and Government advice contained within the National Planning Policy Framework (2012)</p> <p>2. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, and I1 of the Maldon District Local Development Plan and the NPPF.</p>

6.1.2 Relevant planning history of sites in the immediate vicinity:

Application Number	Description	Decision
19/00213/FUL (Little Paddock Chelmsford Road)	Section 73A application for a single storey extension to the former garage and conversion of the former garage to residential use.	Approved (Note: The garage approved to be used as annex to the main dwelling and not as a new dwelling)
18/01426/FUL and 19/00808/FUL (Former Veterinary Surgery Chelmsford Road)	Demolition of existing B1 office and construction of new dwelling house including change of use to residential	Refused for the following reason: <i>The application site lies within a rural location outside of a defined settlement boundary where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord</i>

Application Number	Description	Decision
		<p><i>with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Maldon District Local Development Plan to meet the objectively assessed needs for housing in the District. The site is poorly located relative to facilities, services and sustainable modes of transport. The proposed development would result in the loss of an employment use and it has not been demonstrated to the satisfaction of the LPA that there is no demand for an employment use at this site. Furthermore, the proposal would substantially alter the character and intrinsic beauty of the countryside, particularly through the introduction of a domestic character to this rural site. The development would therefore be unacceptable, does not constitute sustainable development and is contrary to policies S1, S2, S8, E1, D1 and H4 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2018).</i></p>
15/00691/OUT and 16/0001/FUL (Treelawn Nursery Chelmsford Road)	Outline application for the demolition of existing chalet dwelling and erection of 3No. detached houses	Allowed on appeal; however, this was prior to the adoption of the Local Development Plan and thus, this decisions carry very limited weight. This site is closer to the settlement boundary, directly adjacent to a footpath and the character of this section of the road is considerably more domestic than that of the application site.
17/01022/RES(Treelawn Nursery Chelmsford Road)	Reserved matters application for the approval of layout, scale, appearance and landscape on application OUT/MAL/15/00691 approved on appeal APP/X1545/W/16/3148836	Approved

Application Number	Description	Decision
	(Outline application for the demolition of existing chalet dwelling and erection of 3No. detached houses).	
18/00111/OUT (Land Adjacent Tye Meadow Spar Lane)	The demolition of existing outbuilding and erection of a detached 2 bedroom bungalow	Allowed on appeal - This site is closer to the settlement boundary, directly adjacent to a footpath and the character of this section of the road is considerably more domestic than that of the application site.
17/01160/FUL (Land Adjacent Sunnycot Chelmsford Road)	Erection of detached two bedroom chalet bungalow with associated cart lodge, access and amenity.	Allowed on appeal - this application was allowed on appeal (APP/X1545/W/18/3203376), whereby it was concluded that the proposed development would not represent any harm to the character and appearance of the surrounding area as the site was not isolated or remote from other properties and would therefore, be read in context with these properties. Furthermore, the Inspector concluded that the proposed development would be suitably located as there is a footpath leading to the main settlement of Purleigh whereby there are a number of services and facilities. It should be noted that Sunnycot is located approximately 200 metres closer to the settlement boundary of Purleigh and also the pattern of development is significantly different to that at the application site. Furthermore, each application should be determined on its own individual merits

6.1.3 Other appeal decisions:

Application Number	Description	Decision
17/00860/FUL (APP/X1545/W/18/3194812) (Barn Little Ashtree Farm Steeple Road Mayland)	Conversion of barn to residential. Alterations to existing openings, together with insertion of new windows and rooflights. Replacement of external wall and roof cladding.	The appeal was for the conversion of a barn to a residential dwelling and associated alterations which were not considered as part of a previously granted prior approval application. It is important to note that this application was not retrospective in nature. At paragraph 11 of the appeal decision the Inspector outlines that where there are minor differences between the proposed development and the approved scheme then there is a realistic prospect of the approved

Application Number	Description	Decision
		<p>scheme being implemented in the event that the appeal fails.</p> <p>Furthermore, there was no evidence that the fall-back position could not be implemented and that a very similar development could be carried out within the site. In this instance and for these reasons the fall-back position provided a material consideration which carried significant weight in determining the full application.</p> <p>Whilst the fenestration pattern has altered as part of this application and the construction of the development; these alterations are considered to be minor, in relation to the prior approval process, and would not be so significant that the proposed development would no longer benefit from prior approval and that this alone would not constitute unlawful development. The breach of planning control relates predominately to the fact that the development is unlawful and most fundamentally, fails to comply with planning policy.</p>

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 **Representations received from Parish / Town Councils**

Name of Parish / Town Council	Comment	Officer Response
Purleigh Parish Council	Recommend granting planning permission because the development is appropriate on the site.	Comment noted.

7.2 **Representations received from Interested Parties**

7.2.1 No representations were received for this application at the time of writing this report.

8. PROPOSED REASONS FOR REFUSAL

- 1 The proposed development, by reason of its location and design would substantially alter the character of the area and have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site. As such the proposal is contrary to the National Planning Policy Framework's "presumption of sustainable development". The poor sustainability credentials of the site and its locality would significantly and demonstrably outweigh the benefits of the proposal when assessed against the compliant policies of the Maldon District Local Development Plan (2017) including policies S1, S8, D1 and H4 and Government advice contained within the National Planning Policy Framework (2012).

- 2 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, and I1 of the Maldon District Local Development Plan and the NPPF.

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