



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

DIRECTOR OF STRATEGY,
PERFORMANCE AND
GOVERNANCE
Paul Dodson

28 July 2021

Dear Councillor

You are summoned to attend the meeting of the;

DISTRICT PLANNING COMMITTEE

on **THURSDAY 5 AUGUST 2021 at 7.30 pm**

in the **Maldon Stadium (Maldon and Tiptree Football Club), Park Drive, Maldon, Essex, CM9 5JQ.**

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





**AGENDA
DISTRICT PLANNING COMMITTEE**

THURSDAY 5 AUGUST 2021

1. **Chairman's Notices (please see below)**

2. **Apologies for Absence**

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

To confirm the Minutes of the meeting of the District Planning Committee held on 9 June 2021 (copy enclosed).

4. **Disclosure of Interest**

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

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

5. **21/00479/FUL Land North Of Marsh Road, Burnham-on-Crouch, Essex** (Pages 15 - 50)

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

6. **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 No. 5.
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 [Maldon District Council website](#)
* 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
DISTRICT PLANNING COMMITTEE
9 JUNE 2021**

PRESENT

Chairman Councillor M S Heard

Vice-Chairman Councillor C Mayes

Councillors M G Bassenger, Miss A M Beale, B S Beale MBE, V J Bell, R G Boyce MBE, Mrs P A Channer, M F L Durham, CC, M R Edwards, Mrs J L Fleming, CC, B B Heubner, A L Hull, J V Keyes, K M H Lagan, C P Morley, C Morris, S P Nunn, N G F Shaughnessy, R H Siddall, W Stamp, CC, E L Stephens, Mrs J C Stilts, C Swain and Mrs M E Thompson

76. CHAIRMAN'S NOTICES

The Chairman welcomed everyone to the meeting of the District Planning Committee and went through some general housekeeping arrangements for the meeting.

At this point he welcomed newly elected Members, Councillors BB Heubner and E L Stephens to the Council and congratulated Councillors M F L Durham, Mrs J L Fleming and W Stamp on their election as Essex County Councillors.

77. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R P F Dewick, M W Helm, K W Jarvis, N J Skeens and Miss S White.

78. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the District Planning Committee held on 8 October 2020 be approved and confirmed.

79. DISCLOSURE OF INTEREST

Councillors M F L Durham, Mrs J L Fleming and W Stamp declared non-pecuniary interests as a Member of Essex County Council who were statutory consultees on planning matters.

Councillor K M H Lagan declared a non-pecuniary interest in agenda items 6 2100075OUTM - Land 250m North of 16A Maldon Road Burnham-on-Crouch and 7 2001166FUL - Land South Of Charwood and East of Orchard House, Stoney Hills, Burnham-On-Crouch as he had received correspondence from both parties.

Councillor R G Boyce declared a non-pecuniary interest in agenda item 6 2100075OUTM - Land 250m North of 16A Maldon Road Burnham-on-Crouch advising that he was a Trustee and Chairman of an Alms House Trust and in relation to phase one of this development he had voted against the application, but since the Council had shown its wishes he had supported the Officers' recommendation.

Councillor A L Hull declared pecuniary interests in agenda items 6 2100075OUTM - Land 250m North of 16A Maldon Road Burnham-on-Crouch and 7 2001166FUL - Land South Of Charwood and East of Orchard House, Stoney Hills, Burnham-On-Crouch and advised that she would be leaving the room for these items.

Councillor Mrs P A Channer declared a non-pecuniary interest in agenda item 6 2100075OUTM - Land 250m North of 16A Maldon Road Burnham-on-Crouch advising that she was a member of an Alms House Trust.

Councillor V J Bell advised that she would be leaving the room for agenda item 7 2001166FUL - Land South Of Charwood and East of Orchard House, Stoney Hills, Burnham-On-Crouch.

80. 21/00198/VAR - LAND NORTH OF MARSH ROAD, BURNHAM-ON-CROUCH, ESSEX

Application Number	21/00198/VAR
Location	Land North Of Marsh Road, Burnham-On-Crouch, Essex
Proposal	Removal of condition 36 (affordable housing to NDSS) on approved planning permission 19/01208/FUL (Residential development comprising the construction of 90 residential dwellings (Use Class C3), public open space, landscaping and associated infrastructure.)
Applicant	Taylor Wimpey (East London)
Agent	Mr Oli Milne – Savills
Target Decision Date	07.06.2021
Case Officer	Kathryn Mathews
Parish	Burnham Town Council
Reason for Referral to the Committee / Council	Major application

It was noted from the Members' Update that a further letter of objection had been received.

Following the Officers' presentation, Mr Caslin on behalf of Taylor Wimpey the Applicant addressed the Committee.

Councillor R G Boyce moved the Officers' recommendation of refusal. This was duly seconded.

In accordance with Procedure Rule No. 13 (3) Councillor C Morris requested a recorded vote. This was duly seconded.

In response to a question regarding the affordable housing mix proposed Members were advised that if approved this application would not reduce the percentage or change the mix of affordable housing proposed. It was explained that the change related to the minimum internal floorspace required for the affordable units.

The Chairman then put the proposal in the name of Councillor Boyce to the Committee and in accordance with the request for a recorded vote the result was as follows:

For the recommendation:

Councillors M G Bassenger, Miss A M Beale, B S Beale, V J Bell, R G Boyce, Mrs P A Channer, M F L Durham, M R Edwards, Mrs J L Fleming, B B Heubner, A L Hull, J V Keyes, K M H Lagan, C Mayes, C P Morley, C Morris, S P Nunn, N G F Shaughnessy, R H Siddall, W Stamp, E L Stephens, Miss J C Stilts, C Swain and Mrs M E Thompson.

Against the recommendation:

There were none.

Abstention:

Councillor M S Heard.

The motion was therefore carried.

RESOLVED that the application be **REFUSED** for the following reason:

- 1 Condition 36 of planning permission reference 19/01208/FUL is necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. In the absence of a requirement for the affordable housing units to comply with the Nationally Described Internal Space Standards, the local planning authority could not ensure that the affordable housing proposed meet the greatest housing needs of the District, contrary to Policies H1 and H2 of the approved Maldon District Local Development Plan, the Affordable Housing and Viability SPD and the NPPF.

Following her earlier declaration, Councillor A L Hull left the meeting at this point and did not return.

81. 21/00075/OUTM LAND 250M NORTH OF 16A MALDON ROAD, BURNHAM-ON-CROUCH, ESSEX

Application Number	21/00075/OUTM
Location	Land 250M North Of 16A, Maldon Road, Burnham-On-Crouch, Essex
Proposal	Outline application with all matters of detail reserved for future determination (except for layout and means of access to the site) to extend approved retirement community to north and east including affordable housing: erect 132No. one, two and three-bedroom bungalows, 100No. one, two, and three-bedroom apartments in two-storey buildings, and erect single-storey ancillary multi-use community building. Lay out estate roads, footpaths, vehicle parking and surface water drainage infrastructure including swales and detention basins. Form open spaces and allotments and lay out hard and soft landscaping.
Applicant	Mr Ian Holloway - Think Green Land Limited
Agent	Mr Stewart Rowe - The Planning And Design Bureau Ltd
Target Decision Date	14.06.2021
Case Officer	Kathryn Mathews
Parish	Burnham North
Reason for Referral to the Committee / Council	Major application

It was noted from the Members' Update that additional consultation responses and a letter of objection had been received. The Members' Update also detailed amendments to the Section 106 Heads of Terms and conditions and proposed two additional conditions and four additional informatives.

During her presentation of the application the Specialist: Development Management advised that:

- an amendment was required to the housing mix numbers detailed in condition 6 to specify 42no. one-bedroom, 60no. two-bedroom and 30no. three-bedroom bungalows;
- a petition of 205 signatures had been submitted by the agent in support of the application on the basis that the development was much needed to serve the local and broader community;
- a consultation response from the National Health Services (NHS) had been received which requested a financial contribution of £87,400 to mitigate the impact of the development on local General Practice (GP) provision. Members were informed that the applicant had agreed this.

This was noted.

Following the Officers' presentation the Agent, Mr Rowe addressed the Committee.

Prior to any debate taking place the Leader of the Council referred to reports of persons knocking on the doors of Burnham-on-Crouch residents' collecting data and claiming to represent the Council. She advised that no such visits had been carried out by Officers of Maldon District Council.

In response to a question regarding the impact this development would have on the Five-Year Housing Land Supply (5YHLS), the Lead Specialist Place outlined how the Council had to show that the 5YHLS was deliverable and provided an estimate of the notable figure which this development would add to the 5YHLS.

Councillor C Morris proposed that the Officers' recommendation not be accepted, and the application be refused for reasons relating to bulk and scale. This proposal was duly seconded.

A lengthy debate ensued, during which the Lead Specialist Place and other Officers provided Members with information in response to questions raised which included:

- the 5YHLS and the application of policies in relation to this;
- the Local Development Plan and the review currently being undertaken;
- access to the Public Rights of Way;
- density of the proposed development, including the need for three bedroomed retirement properties;
- impact of the development on the surrounding landscape;
- the housing requirements for elderly persons within the District, as set out in the Council's Strategic Housing Market Assessment;
- comparisons between this and other planning applications for similar development;
- the proposed Heads of Terms for the Section 106 Agreement;
- consideration of the 'titled balance'.

Councillor R G Boyce raised a Point of Order referring to a comment he had made during the debate and the rule that allowed a personal statement and clarified that although he had referred to the possibility of phases 3, 4, 5 he made it clear that the Council would not take that into consideration and only consider what was before it. The Chairman agreed and advised Councillor Boyce that this was noted.

The Chairman sought clarification from Councillor Morris on his proposed reasons for refusing the application. Further debate ensued, and Members discussed the distance of the development from the town of Burnham-on-Crouch, the benefits not outweighing the harm, integration of the development with the existing community, the economic benefit, and the significant impact it would have to the properties fronting Maldon Road and Green Lane to the south.

In accordance with Procedure Rule No. 13 (3) Councillor C Morris requested a recorded vote. This was duly seconded.

In response to the debate and reasons for refusal discussed, the Lead Specialist Place suggested that Members may wish to consider the reasons being that the benefits of the development did not outweigh the harm, particularly in relation to the impact on the character of the area and the outlook from neighbouring residential properties which front Maldon Road / Green Lane. Councillor Morris amended his proposal to refuse the application for the reasons as outlined by the Officer. This amendment was duly seconded.

The Chairman then put the proposal to the Committee and the vote was as follows:

For the recommendation:

Councillors M G Bassenger, Miss A M Beale, B S Beale, V J Bell, R G Boyce, Mrs P A Channer, M F L Durham, M R Edwards, Mrs J L Fleming, B B Heubner, J V Keyes, K M H Lagan, C Mayes, C P Morley, C Morris, S P Nunn, N G F Shaughnessy, R H Siddall, W Stamp, E L Stephens, Mrs J C Stilts, C Swain and Mrs M E Thompson.

Against the recommendation:

None.

Abstention:

Councillor M S Heard.

The motion was therefore carried.

RESOLVED that the application be **REFUSED** subject to the following reason:

- 1 The benefits of the proposed development do not overcome the harm caused to the character and appearance of the area and to the amenity of the occupiers of existing residential properties which front Maldon Road and Green Lane to the south as a result of the adverse impact the development would have on their outlook, contrary to Policies S8 and D1 of the approved Maldon District Local Development Plan, adopted Burnham-on-Crouch Neighbourhood Plan and the NPPF.

Following her earlier declaration of interest Councillor V J Bell left the meeting at this point and did not return.

82. 20/01166/FUL LAND SOUTH CHARWOOD AND EAST OF ORCHARD HOUSE, STONEY HILLS, BURNHAM-ON-CROUCH

Application Number	20/01166/FUL
Location	Land South Of Charwood and East of Orchard House, Stoney Hills, Burnham-On-Crouch
Proposal	Construct cul-de-sac road with turning head and vehicular and pedestrian access off Stoney Hills, erect one detached bungalow and garage, lay out parking spaces and garden
Applicant	Mr Burrows - Virium Technology Limited
Agent	Mr Stewart Rowe - The Planning And Design Bureau Ltd
Target Decision Date	3 May 2021
Case Officer	Louise Staplehurst
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Departure from the Local Plan 2017

It was noted from the Members' Update that a further consultation response had been received.

A copy of the report and Members' Update considered at the South Eastern Area Planning Committee on 17 February 2021 were attached as Appendices 1 and 2 respectively to the report.

In response to a question the Specialist – Development Management advised that the access road to the site was private and had been approved as part of a previous planning application.

Councillor R G Boyce proposed that the Officers' recommendation of approval be agreed. This was duly seconded.

In accordance with Procedure Rule No. 13 (3) Councillor C Morris requested a recorded vote. This was duly seconded.

Councillor Morris advised that if the proposal for approval failed he wished to propose that the application be refused due to the design being incongruous and contrived.

During the debate that followed some concern was raised regarding the distance between and the impact the proposal would have on the outlook of Orchard House.

Councillor Boyce left the meeting during the debate and did not return.

In response to some questions raised the Lead Specialist Place provided Members with further information regarding the proposed development including how it was not unusual to have an elevation without windows.

In response to a point of order raised by Councillor W Stamp regarding whether the proposal in the name of Councillor Boyce could be put as he had since left the meeting, the Lead Legal Specialist and Monitoring Officer advised that although Councillor Boyce had left the meeting the proposal still stood.

The Chairman the put the proposal to approve the application to the Committee and the voting was as follows:

For the recommendation:

Councillors M F L Durham, J V Keyes, R H Siddall, E L Stephens, C Swain and Mrs M E Thompson.

Against the recommendation:

Councillors M G Bassenger, Miss A M Beale, B S Beale, Mrs P A Channer, M R Edwards, Mrs J L Fleming, B B Heubner, K M H Lagan, C Mayes, C P Morley, C Morris, S P Nunn, N G F Shaughnessy, W Stamp and Mrs J C Stilts.

Abstention:

Councillor M S Heard.

The Chairman declared the motion was therefore lost.

The Lead Legal Specialist and Monitoring Officer clarified that the Committee now needed to consider the proposal by Councillor Morris for refusal and if Members were mindful to refuse the application it was important to agree reasons as a refusal would be contrary to the Officers' recommendation.

A discussion followed, during which a number of reasons for refusal were discussed and in response the Lead Legal Specialist provided some legal guidance advising that the Committee had to specify in what way the proposed development would demonstrate harm. The Lead Specialist Place suggested, having listened to Members discussion, that the reasons for refusal could be that the proposed design was incongruous and contrived and would have impact on the neighbours at Orchard House due to loss of outlook. Councillor Morris amended his proposal of refusal for the reasons outlined by the Officer. This was duly seconded.

The Chairman then put the proposal for refusal, contrary to the Officers' recommendation to the Committee and the voting was as follows:

For the recommendation:

Councillors M G Bassenger, Miss A M Beale, B S Beale, Mrs P A Channer, M R Edwards, Mrs J L Fleming, B B Heubner, J V Keyes, K M H Lagan, C Mayes, C P Morley, C Morris, S P Nunn, N G F Shaughnessy, W Stamp and Mrs J C Stilts.

Against the recommendation:

Councillors R H Siddall, E L Stephens, C Swain and Mrs M E Thompson.

Abstention:

Councillor M S Heard.

The Chairman declared that the motion was therefore agreed.

RESOLVED that this application be **REFUSED** for the following reasons:

1. The design of the dwelling is considered to be incongruous and contrived which would cause harm to the character and appearance of the surrounding area, contrary to policy D1 of the Local Development Plan (LDP).
2. The proposal would result in demonstrable harm to the residential amenity of the western neighbour of Orchard House by resulting in a harmful loss of outlook from this neighbouring dwelling, contrary to policy D1 of the LDP.

There being no other items of business the Chairman closed the meeting at 9.39 pm.

M S HEARD
CHAIRMAN

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**DISTRICT PLANNING COMMITTEE (SPECIAL)
5 AUGUST 2021**

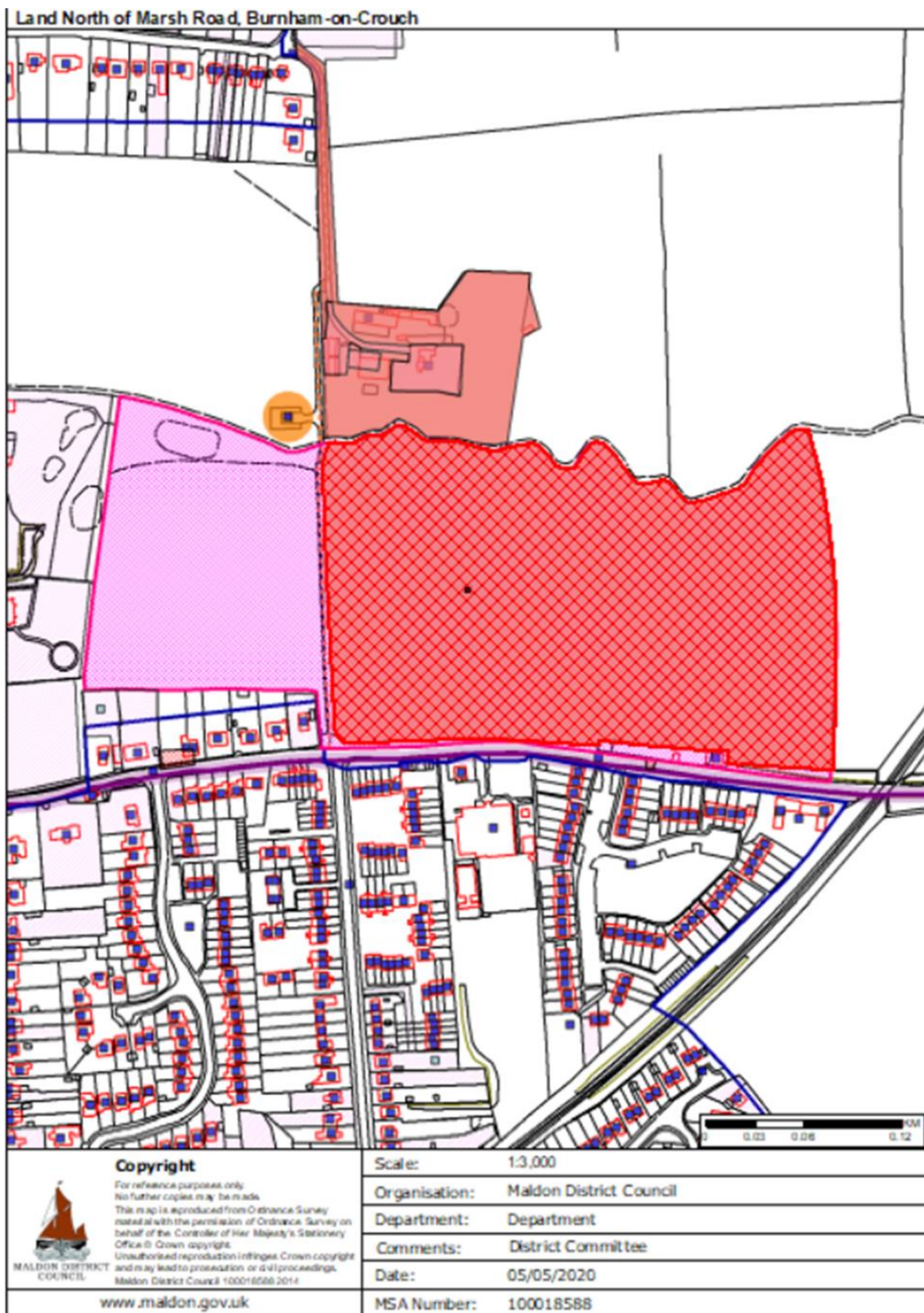
Application Number	21/00479/FUL
Location	Land North Of Marsh Road, Burnham-On-Crouch, Essex
Proposal	Residential development comprising the construction of 58 residential dwellings (Use Class C3) public open space, landscaping and associated infrastructure (Revised proposals to that already approved under FUL/MAL/19/01208 to provide 15 additional dwellings, a revised dwelling mix and alterations to the layout)
Applicant	Taylor Wimpey (East London)
Agent	Mr Oli Milne – Savills
Target Decision Date	26.08.2021
Case Officer	Kathryn Mathews
Parish	BURNHAM TOWN COUNCIL
Reason for Referral to the Committee / Council	Major application Strategic site within the Local Development Plan

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.



3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 The site is one of the allocated sites in Burnham-on-Crouch, known as S2(k), which is located to the north of Marsh Road, east of St Mary's Church and west of the railway line which links Southminster and Burnham-on-Crouch. The site is allocated for a minimum of 90 dwellings within the Local Development Plan.

3.1.2 The site was arable land bounded by hedgerows along most of the boundaries. A public footpath runs along the western boundary of the site. The northern part of the application site, along Pannel's Brook, is located within Flood Zones 2 and 3. Topographically the area is relatively flat with a slight fall from the south-western corner to the north-eastern corner.

3.1.3 The area is mainly in residential use to the south-west, whilst to the north and east is open countryside. To the west, further along Marsh Road, there are a number of residential properties fronting Marsh Road beyond which is the site is St Mary's Church, a Grade II* listed building. St Mary's Primary School is located to the south of the site on the opposite side of Marsh Road which is surrounded by residential properties. A dwelling, known as The Vines, is located along the southern boundary of the site in an unusually long and narrow parcel of land along Marsh Road.

3.1.4 Planning permission was granted for 90 dwellings on the site on 21 December 2020 subject to conditions and following the completion of a Section 106 (S106) Agreement (19/01208/FUL). The current application seeks planning permission for a revised scheme for part of the site (the eastern third) which would add an additional 15 dwellings to the development.

3.1.5 The open market housing mix proposed for the part of the site to which the current application relates is as follows:

24no. two-bedroom houses
5no. three-bedroom houses
4no. four+ bedroom houses
Total 33no. dwellings

The approved open market housing mix for this part of the site is as follows:

16no. two-bedroom houses
5no. three-bedroom houses
3no. four-bedroom houses
Total 24no. houses

3.1.6 The affordable housing mix proposed for the part of the site to which the current application relates is as follows:

12no. one-bedroom flats
9no. two-bedroom houses
4no. three-bedroom houses
Total 25no. dwellings

The approved affordable housing mix for this part of the site is as follows:

6no. one-bedroom flats
6no. two-bedroom houses
7no. three-bedroom houses
Total 19no. dwellings

3.1.7 The resulting site-wide housing mix would be:

17no. one-bedroom dwellings
61no. two-bedroom dwellings
17no. three-bedroom dwellings
10no. four-bedroom dwellings
Total 105no. dwellings (78% one and two-bedroom properties)

3.1.8 The resulting site-wide open market housing mix would be:

Dwelling Size	Number of Units – approved	Number of Units – proposed
2 Bed House	32	40
3 Bed House	13	13
4 Bed House	9	10
Total	54	63

3.1.9 The resulting site-wide affordable housing mix would be as follows:

Dwelling Size	Affordable Housing Units - approved	% of Affordable Housing - approved	Affordable Housing Units – proposed	% of Affordable Housing Units - proposed
1 Bed Flat	6	17%	12	28.6%
1 Bed Bungalow	5	14%	5	11.9%
2 Bed House	18	50%	21	50%
3 Bed House	7	19%	4	9.5%
Total	36 (40%)	100%	42 (40%)	100%

3.1.9.1 With 70% of the affordable housing falling within affordable rent and 30% shared ownership.

3.1.10 The changes proposed include a combination of unit re-positioning, unit substitution and the addition of new units (including a second block of flats in the south eastern corner of the site replacing part of the permitted orchard). The current application site extends to approximately 4.3ha and includes the access roads, public open space, attenuation basins etc approved as part of the previously proposed scheme. Minor changes to the Sustainable Drainage System (SuDS) are included to accommodate the revised road layout. A shared surface is proposed on the eastern boundary to replace a private drive to accommodate additional dwellings and an additional private drive has been added.

3.1.11 All of the dwellings would be two-storey in height with single storey elements including attached and detached garages except for one semi-detached pair located roughly centrally which would be two and half storeys in height.

3.1.12 The parking proposed in this revised scheme for 58 units would consist of 105 allocated spaces, 27 visitor spaces and 4 garage spaces (a total of 136 spaces). Cycle stores would be provided for all of the properties.

3.1.13 The vehicular access to the site from Marsh Road would remain unchanged. Site wide, there would be 203 car parking spaces for the 105 units (the unchanged element of the approved scheme to the west of the site, and the proposed element) with 28 visitor spaces.

- 3.1.14 All of the private garden areas would measure at least 50sq.m. for the two-bedroom houses and 100sq.m. for the properties with three or more bedrooms. The two blocks of 6no. one-bedroom flats to be located in the south-eastern corner of the site would have a communal area of amenity space of at least 125sq.m. per block and the flats would each also have a balcony of around 4sq.m.
- 3.1.15 Whilst the size of the approved orchard would be reduced (by around 540sq.m.), the areas of public open space within the development would extend to 2.11ha. The density of the development proposed would result in the site-wide density increasing from 16.2 dwellings per hectare (d.p.h) to 18.9 d.p.h.
- 3.1.16 The application has been accompanied by a Design and Access Statement, and Planning Statement along with a Flood Risk Assessment Addendum, Noise Assessment, Heritage Setting Addendum, Landscape and Visual Impact Assessment Addendum, Ecological Impact Assessment and an Arboricultural Survey, Impact Assessment and Protection Plan.
- 3.1.17 A number of supporting documents submitted as part of the original application have also been resubmitted:
- Flood Risk Assessment;
 - Heritage Assessment;
 - Geoenvironmental Site Investigation;
 - Transport Assessment;
 - Landscape and Visual Impact Assessment;
 - Landscape Management Plan;
 - Shadow Habitats Regulations Assessment;
 - Health Impact Assessment.
- 3.1.18 The application has also been accompanied by draft Heads of Terms for a Section 106 Agreement.
- 3.1.19 The height of the approved two storey dwellings and block of flats ranged from 7.6m to 8.5m. The proposed dwellings and block of flats would be comparable in height except for a pair of semi-detached, two and half storey dwellings which would have a ridge height of 9.7m. The design of the buildings proposed would also be comparable to those previously approved.
- 3.1.20 A Local Equipped Area of Play (LEAP) was secured as part of the original planning permission (to be located to the west of the entrance to the site). The approved scheme also included two attenuation basins to the north of the site, a sub-station to the west of the main entrance and a foul water pumping station to the north-west.

3.2 **Conclusion**

- 3.2.1 The proposed development is located within one of the strategically allocated sites in Burnham-on-Crouch and complies with the designated requirement that the site is developed for a minimum of 90 dwellings. Furthermore, sufficient provision for infrastructure, services and facilities would be made as part of the development to meet the requirements of the relevant Local Development Plan (LDP) policies. Therefore, it is considered that the principle of the development is acceptable.

- 3.2.2 The development is considered to provide suitable provision of affordable housing and would also meet the identified need of the District for smaller residential accommodation. The development would neither be harmful to the character and appearance of the area or site, nor would it be harmful to the amenities of the neighbouring occupiers. It would also make adequate provision for off street parking and would not have an adverse impact on nature conservation.
- 3.2.3 Therefore, subject to the conditions recommended and a Section 106 Agreement to secure the necessary affordable housing as well as financial contributions towards education, health care provision, highways improvements and to address the adverse recreational impact of the development on the Essex Coast (where necessary), the development would be acceptable and in accordance with the development plan for the area.

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
- 59-66 Delivering a sufficient supply of homes
- 91-101 Promoting healthy and safe communities
- 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
- 184-192 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
- S3 Place Shaping
- S8 Settlement Boundaries and the Countryside
- S6 Burnham-on-Crouch Strategic Growth
- D1 Design Quality and the Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Management
- H1 Affordable Housing
- H2 Housing Mix
- H4 Effective Use of Land

- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity
- N3 Open Space, Sport and Leisure
- T1 Sustainable Development
- T2 Accessibility
- I1 Infrastructure and Services

4.3 Adopted Burnham-on-Crouch Neighbourhood Plan (BOCNP):

- Policy S1 – Strategic Housing Growth
- Policy CS.2 – Community Facilities
- Policy EN.3 – Enhancement of the Natural Environment
- Policy EN.7 - Waste Bins Storage
- Policy HO.1 – New Residential Development
- Policy HO.2 – Range and Type of New Residential Development
- Policy HO.4 – Affordable Market Housing
- Policy HO.7 - Land at Burnham North (East)
- Policy HO.8 – Housing Design Principles

4.4 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide Supplementary Planning Document (SPD) (2017) (MDDG)
- Maldon District Affordable Housing and Viability SPD (December 2019)
- Maldon District Vehicle Parking Standards SPD (2018)

4.5 Necessary Associated Infrastructure Improvements Required and/or Affordable Housing

4.5.1 The applicant's agent has submitted a draft list of Heads of Terms, as follows:

- Affordable housing (40% of the total units with a tenure split of 70% affordable rent and 30% shared ownership);
- Early Years and Childcare Contribution (subject to agreement);
- Primary Education Contribution (subject to agreement);
- Secondary Education Contribution (subject to agreement);
- NHS England Contribution – the NHS has recommended that a contribution of £21,850 is required,
- Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Contribution - £127.30 per dwelling; and
- Monitoring Fees (subject to agreement).

5. MAIN CONSIDERATIONS

- 5.1 The main issues which require consideration as part of the determination of this application are the principle of the development, the impact of the development on the character and appearance of the area (including any impact on heritage assets), the impact on the amenity of existing residents, the quality of life for the occupiers of

the proposed dwellings, highway safety / access / parking, flood risk / drainage and the impact on nature conservation. The need to secure any obligations as part of a Section 106 Agreement would also need to be considered/assessed.

5.2 Principle

5.2.1 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.

5.2.2 Policy S1 of the LDP states that *'When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF'* and apply a number of key principles in policy and decision making set out in the Policy.

5.2.3 Policy S3 sets out the key development principles new development in the Garden Suburbs and strategic allocations should follow. Policy S6 for the allocated sites in Burnham-on-Crouch states that permission will be given for development provided that:

1. *Development can be accommodated within the capacity of the Burnham-on-Crouch road network following appropriate mitigation measures and junction improvements;*
2. *Safe pedestrian cycling and bridleway links are provided from the development to the town centre and, where applicable, to other public services, facilities and the existing urban area;*
3. *Provision is made for increased and enhanced green infrastructure including provision for youth and children's facilities;*
4. *Development will protect and enhance the landscape and the character of the historic environment;*
5. *Community facilities of appropriate form and scale are integrated into the design and layout of development proposals;*
6. *Pupil demand from the development can be accommodated within existing and new primary, secondary and early years and childcare facilities, as well as adult community learning;*
7. *Contribution is made for enhanced medical provision in cooperation with the relevant health bodies;*
8. *Appropriate surface water management mitigation measures are incorporated into the development;*
9. *Adequate provision is made for enhanced and comprehensive sewerage infrastructure;*
10. *Adequate provision is made for affordable housing provision;*
11. *A significant proportion of the proposed dwellings for Burnham-on-Crouch are of a form, tenure and dwelling mix that is appropriate for meeting the housing needs of an older population including the provision of bungalows, sheltered housing, extra care housing, private retirement homes and lifetime homes etc.;*
12. *Provision for B use employment land in the form of an extension to the Burnham Business Park (relevant only to site S2(i));*

13. *The development will preserve and enhance the quality of the historic character including the built environment, archaeology and the historic skyline within the context of its riverside, estuarine and rural location;*
14. *Development proposals must be accompanied by a comprehensive and detailed ecological survey;*
15. *Prior to any development a comprehensive and detailed archaeological assessment is undertaken; and*
16. *Identified infrastructure will be delivered in line with the requirements set out in Policy I1 and having regard to the most recent evidence provided in the Infrastructure Delivery Plan.*

5.2.4 Furthermore Policy HO.7 of the Burnham-on-Crouch Neighbourhood Development Plan (NDP) states that “*Development proposals should bring forward high quality designs that take account of the following factors:*

- *The delivery of a layout that respects and takes advantage of the topography of the site as it falls to Pannel’s Brook to the north;*
- *The delivery of a layout that respects the setting of St Mary the Virgin Church and which provides appropriate vistas towards its tower;*
- *The delivery of a layout that respects the Marsh Road frontage and provides a strong design solution towards that frontage;*
- *The delivery of a layout that reduces in both scale and density from south to north;*
- *The delivery of affordable housing to District Council standards at the time of the determination of the planning application concerned; and*
- *The delivery of a layout that takes account of Pannel’s Brook both in terms of urban design and the protection of properties from potential flooding.*

5.2.5 The proposal is for the erection of an additional 15 units (dwellings and flats) to the approved 90 units, at the allocated site to the north east of Burnham-on-Crouch. The proposed development would provide an amount of residential development that accords with the minimum delivery requirements of Policy S2 of the LDP and Policy S1 of the Burnham-on-Crouch NDP. On that basis, it is considered that the residential development proposed is acceptable in principle. Nevertheless, the acceptability of the development is subject to other policy criteria, as stated above and material planning considerations, which are further assessed below in each relevant section of the report.

5.3 Housing Need

5.3.1 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). The Council is not currently able to demonstrate a deliverable 5YHLS with only 3.26 years of housing land supply.

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

5.3.3 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).

5.3.4 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. Furthermore, 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’*.

5.3.5 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.

5.3.6 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. 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 5YHLS of deliverable housing and on the basis that proposals outside of the defined development boundaries could be judged to be ‘sustainable development’ through the three dimension tests of the NPPF, the LPA is 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.

5.3.7 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'.

- 5.3.8 The application site forms part of a site allocated for at least 90 dwellings in the adopted Local Development Plan. The proposal to add 15 dwellings so taking the total up to 105 dwellings, would, therefore, not conflict with the allocation of this site. The application site is part of a strategic residential site located in Burnham-on-Crouch, a settlement that is classified, along with Maldon and Heybridge, as a 'main settlement' within the District, as detailed within policy S8 of the LDP. The main settlements are those with a range of services and opportunities for employment, retail and education. They serve a wide catchment area and contain good public transport links.

5.4 Environmental Dimension

- 5.4.1 Accessibility is a key component of the environmental dimension of sustainable development. Policy T1 aims to secure the provision of sustainable transport within the District and Policy T2 aims to create and maintain an accessible environment.
- 5.4.2 The application site is within the town of Burnham-on-Crouch and the occupiers of the site would have access to a good range of services and facilities by means other than the private car. The site is located around 0.5km from the railway station and the nearest bus stops are 0.2km away along Southminster Road, providing a connection with Southminster, Maldon and Chelmsford. Near the train station there is a small local centre with the main town centre located approximately 1.2km from the site. Ormiston Rivers Academy is 0.3km away and St Marys Primary School is directly opposite the site to the south. This good level of accessibility weighs significantly in favour of the proposal.
- 5.4.3 The other elements of the environmental dimension (which would include the impact on the character and appearance of the area, nature conservation, residential amenity, the quality of life for the occupiers of the proposed residential units and flood risk / drainage) are discussed below.

5.5 Social Dimension

- 5.5.1 In terms of the social dimension of sustainable development, the development would contribute towards the supply of housing within the District at a time when the Council is only able to demonstrate 3.26 years of housing land supply. This matter weighs significantly in favour of the proposal.

5.6 Housing Mix

- 5.6.1 In addition to the above, the Council encourages, in policy H2, the provision of a greater proportion of smaller units to meet the identified needs and demands. The Council's most up-to-date Strategic Housing Market Assessment (SHMA), published in June 2014, at the time the application was submitted identifies the same need requirements for 60% of new housing to be for one- or two-bedroom units and 40% for three-bedroom plus units. The proposal for 58no. residential units consisting of a mixture of one, two, three and four-bedroom units with at least 60% being one- or two-bedroom units, would contribute positively to the identified housing need and be responsive to local circumstances which would weigh in favour of the proposal, but this weight would be limited due to the number of additional residential units proposed. The affordable units proposed would be of a similar appearance to the open market units and not physically segregated as required by this Policy.

- 5.6.2 Whilst the results of a more up-to-date Local Housing Needs Assessment (LHNA) has now been published, as this was very recently, and the current application is only seeking planning permission for an amendment to an approved scheme, it is considered that it would be unreasonable to require the housing mix proposed to comply with the LHNA at this late stage.

5.7 Affordable Housing

- 5.7.1 In terms of affordable housing provision, Policy H1 of the LDP states that all housing developments of more than 10 units or 1,000sqm will be expected to contribute towards affordable housing provision to meet the identified need in the locality and address the Council's strategic objectives on affordable housing.
- 5.7.2 The Specialist – Housing Manager has advised that the proposal would meet the 40% affordable housing requirement for this site and the affordable units would meet minimum space sizes set out in the Nationally Described Space Standards (NDSS). However, they are unable to fully support the scheme as the affordable housing mix proposed does not comply with the results of the 2021 LHNA.
- 5.7.3 The proposal would satisfy the requirements of Policy H1 as at least 40% of the units proposed would be affordable and would comply with the NDSS. Whilst the results of a more up-to-date LHNA has now been published, as this was very recently, and the current application is only seeking planning permission for an amendment to an approved scheme, it is considered that it would be unreasonable to require the housing mix proposed to comply with the LHNA at this late stage.
- 5.7.4 The affordable units proposed would need to be secured through a Section 106 Agreement, but, this issue has positive weight in the determination of the current application.

5.8 Other Social Matters

- 5.8.1 No Statutory Consultee has raised an objection to the proposal based on any perceived infrastructure constraints except for Essex County Council (ECC) SuDS Team and these technical issues are in the process of being addressed by the applicant. The application has been accompanied by a Health Impact Assessment which states that no elements of the proposal are expected to have negative impacts on the health of the residents of the District, but it is acknowledged that a financial contribution of towards healthcare provision may be required.
- 5.8.2 The applicant has stated that they are willing to enter into a Section 106 Agreement to secure financial contributions towards medical services and education if the relevant consultees require. A consultation response from ECC education services has not been received but the NHS has advised that a financial contribution of £21,850 would be required.

5.9 Economic Dimension

- 5.9.1 With reference to the economic dimension of sustainable development, the development would result in economic benefits through the employment and business created by the construction of the development proposed and the additional expenditure in the local economy by the new residents. These economic benefits would weigh in favour of the proposal but would be limited due to the scale of the additional development proposed.

5.10 Design and Impact on the Character of the Area

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

5.10.2 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 any local design standards or style guides in plans or supplementary planning documents”.

5.10.3 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;

5.10.4 Policy H4 states that “all development will be design-led and will seek to optimise the use of land having regard to the following considerations:

- 1) The location and the setting of the site;
- 2) The existing character and density of the surrounding area;
- 3) Accessibility to local services and facilities;
- 4) The capacity of local infrastructure;
- 5) Parking standards;
- 6) Proximity to public transport; and
- 7) The impacts upon the amenities of neighbouring properties.”

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

5.10.6 The application has been accompanied by a Landscape and Visual Impact Assessment Addendum.

5.10.7 The main change to the approved scheme would be the addition of a second block of 6no. flats in the south-eastern corner of the site and an associated reduction in the size of the previously approved orchard. Smaller areas of landscaping within the site would also be lost. However, both blocks of flats would be two storeys in height and

each would accommodate 6no. one-bedroom flats. Furthermore, Marsh Road at this juncture, is elevated as the road extends over the railway bridge and is heavily landscaped with mature trees south of the red line boundary to this site and, therefore, the additional block would not be overly dominant in the streetscene. As a result, it is considered that this additional block, whilst bulkier than the dwellings proposed, would not cause material harm to the character or appearance of the area or appear incongruous in their setting. The reduction in the size of the community orchard, in the context of the development as a whole and the landscaping and open space which would remain, would not result in demonstrable harm to the character or appearance of the development or the surrounding area.

- 5.10.8 The house types proposed would be comparable to those already approved and almost all would be no more than two storeys in height. The development would retain the perimeter block structure divided by a hierarchy of internal roads with the houses predominantly positioned around the edges of the blocks with rear gardens behind. The external materials proposed would also be in-keeping with those previously approved. The external boundaries of the site would be landscaped, as previously proposed. The affordable housing units would be of a relatively similar design to the market housing proposed. Based on this, it is considered that the revised proposal would not cause material harm to the character or appearance of the area.
- 5.10.9 The size of the communal parking area would need to be increased to accommodate parking for the additional block of flats but, given the limited increase in size (six spaces) and its position behind the blocks proposed, this element would not cause visual harm. Otherwise, off street parking is nearly all proposed to the side/between the dwellings proposed. Therefore, vehicular parking would not be overly dominant within the streetscenes.
- 5.10.10 The application is accompanied by an Arboricultural Survey, Impact Assessment and Protection Plan and Landscape Management Plan – any trees requiring removal to enable the development are of low quality and their loss would be mitigated in any event with the new landscaping proposed and tree protection measures. No additional trees require removal to accommodate the additional 15 dwellings proposed.
- 5.10.11 The proposed layout is comparable to that previously approved and whilst the number of properties would be increased, this has not been achieved through a materially harmful reduction in the spaciousness of the development.
- 5.10.12 Based on the above, it is considered that the development proposed would not cause harm to the character or appearance of the area materially greater than which would have been caused as a result of the approved scheme.

5.11 Impact on Heritage Assets

- 5.11.1 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Similarly, policy D3 of the approved Maldon District LDP (MDLDP) states that development proposals that affect a heritage asset must preserve or enhance its special character, appearance, setting and any features and fabric of architectural or historic interest. Where a proposed development would cause less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.

5.11.2 The application is accompanied by a Heritage Setting Addendum.

5.11.3 There are two designated heritage assets to the west of the application site (the parish church of St Mary is a Grade II* listed building and Burnham Hall is a Grade II listed building). The application is supported by a Heritage Assessment. However, as the revisions proposed relate to the eastern side of the site, their settings would not be affected to any greater degree than would have been the case with the development already approved. The Specialist – Conservation and Heritage concurs with this view. Historic England raise no objection.

5.11.4 As a result, no objection is raised in terms of the impact of the development on existing heritage assets.

5.12 Impact on Residential Amenity

5.12.1 The basis of Policy D1 of the 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). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.

5.12.2 The dwellings proposed would be located at least 19m from the boundary of the closest existing residential property which adjoins the southern boundary of the site and which fronts Marsh Road. Due to this separation distance and as the road layout proposed would not result in the associated private driveways being located any closer to those already approved, it is not considered that the revised development would cause materially greater harm than the development already permitted.

5.12.3 The Specialist – Environmental Health has yet to comment on the revised scheme, but no concerns were raised in response to the previous application although a condition requiring details of external lighting was recommended which is also included below.

5.13 Access, Parking and Highway Safety

5.13.1 Policy T2 of the LDP 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, which are expressed as minimum 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.

5.13.2 The application is accompanied by a Transport Assessment.

5.13.3 Vehicular access to the site from Marsh Road would remain as previously approved. An additional 15 dwellings would not materially increase the trips generated by the occupiers of the site. A financial contribution (£11,600) towards improvements to the junction of Church Road and Marsh Road was secured as part of the previous planning permission along with improvements to the existing bus stops either side of the B1021 Church Road between the junction with Marsh Road and the B1010 Maldon Road.

5.13.4 ECC Highways have not commented on the revised scheme but, based on the above, it is not anticipated that the proposal will not be found to be acceptable in terms of access and highway safety.

- 5.13.5 In relation to parking, the parking proposed for the 58no. residential units the subject of the current application would consist of at least one parking space for the one-bedroom units, two parking spaces for the two- and three-bedroom units and three parking spaces for the 4+ bedroom units. Based on the housing mix proposed, there would be a need to provide at least 108 allocated spaces and 27 visitor spaces to comply with the adopted standards; sufficient parking spaces are included within the proposed scheme. In addition, cycle stores would be provided for all of the properties. The dimensions of the garages, car ports and parking spaces would be sufficient to comply with the adopted parking standards.
- 5.13.6 Subject to the advice of ECC Highways and the parking issue referred to above being addressed, no objections to the revised proposal are raised in relation to highway safety, access or parking provision.

5.14 Quality of Life for the Occupiers of the Proposed Dwellings

- 5.14.1 With regard to the size of amenity spaces, the Council has adopted the MDDG as supplementary planning guidance to support its policies in assessing applications for residential schemes, which considers dwellings with three or more bedrooms should provide 100 square metres of amenity space, smaller dwellings should provide 50 square metres and flats should provide 25 square metres. Policy D1 of the LDP indicates the need for amenity space in new development and that the spaces provided must be useable.
- 5.14.2 The application is accompanied by a Noise Assessment which concludes that the development is acceptable using standard masonry constructions and acoustically upgraded thermal glazing and trickle ventilators, where required, and that compliance with the relevant British Standard (BS) can be secured via a planning condition, if considered necessary by the LPA.
- 5.14.3 The private amenity spaces for the dwellings proposed would comply with the minimums recommended in the MDDG. Back-to-back distances would also be at least 25m and adequate provision would be made for refuse storage. The two blocks of flats proposed would each be provided with a communal amenity area of at least 125sq.m. Furthermore, public open space and a LEAP is to be provided as part of the wider development.
- 5.14.4 The greenspace standards for Maldon District are identified in the Green Infrastructure Strategy for Maldon District (2018). This states that 2.28ha per 1,000 people should be provided to meet the total parks and amenity space standards. Based on the SHMA, average household size by 2021 was calculated at 2.31. The development would result in a population of 242 (105 dwellings x 2.31 persons per household) – an extra 35 persons. As a result, the requirement for Public Open Space (POS) would be 0.55ha (an extra 0.08ha). The proposed LEAP will measure 466m² in area and the reduced public orchard within the southeast of the site would still measure approximately 1620m² in area. There is also an area of public open space within the north of the site which measures in excess of the surplus 3,414m² of the required open space. Therefore, there is no objection in this regard.
- 5.14.5 With regard to the proposed LEAP, the requirements are for the LEAP to be located within walking distance (five minutes) from all homes, that five play types are provided within a minimum zone activity of 400sqm, including fencing with pedestrian gates, seating and litter bins. The previous application was supported by a detailed LEAP proposal, which shows that five different play equipment types would be provided, that the area would be fenced and bounded by hedging with two pedestrian accesses, and two benches and two litter bins would be provided within the play

area. The LEAP will measure around 400sqm and be within less than five minutes walking distance of all of the dwellings within the proposed development. As a result, the development would provide a quality play area for future occupiers that meets requirements as set out in the Green Infrastructure Strategy.

- 5.14.6 A Management Company would be created to be responsible for maintaining the areas of public open space and LEAP to be secured through a Section 106 Agreement.
- 5.14.7 The application is accompanied by a Noise Assessment. The Specialist – Environmental Health has not commented on the revised proposal but, in response to the previous application, raised no objection subject to the imposition of a conditions requiring the approval of a schedule of glazing and ventilation for bedrooms and living rooms within the properties which would front Marsh Road. As the approved scheme and that currently proposed are very similar in terms of their layout and the house-types proposed, it is anticipated that no objection will be raised to the current application, subject to the imposition of the same condition.
- 5.14.8 Based on the above, it is considered that the proposal would provide an adequate quality of life for the occupiers of the proposed dwellings.

5.15 Flood Risk and Drainage

- 5.15.1 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. The Policy also requires that all development must not increase flood risk (including fluvial, surface and coastal) on site and elsewhere.
- 5.15.2 The application is supported by a Flood Risk Assessment.
- 5.15.3 The northern part of the site is located within Flood Zones 2 and 3 associated with Pannels Brook. However, none of the dwellings proposed would be located within these flood zones and only the 'water compatible' elements of the proposal e.g. attenuation basins would be located in this part of the site.
- 5.15.4 As the site is allocated for residential development within the LDP, the requirements of the Sequential Test have been satisfied.
- 5.15.5 In terms of surface water drainage, the applicant considers that the addition of 15 dwellings and a small increase of impermeable surfacing would not result in any adverse issues in relation to surface water drainage. However, in response to the application, the ECC SuDS Team have requested further / revised surface water details which the applicant is in the process of compiling. Once received, the SuDS Team will be re-consulted and their response included within a Members' Update.
- 5.15.6 With respect to foul drainage, the development is to be connected to the mains sewer and Anglian Water Services has advised that there is sufficient capacity to accommodate the foul drainage flows from the development, subject to the imposition of conditions which are included below (Policy D2).
- 5.15.7 Based on the above, subject to the concerns raised by the ECC SuDS Team being satisfactorily addressed, no objection to the revised proposal in relation to flood risk, surface water drainage and foul drainage is raised.

5.16 Nature Conservation

- 5.16.1 Policy N1 requires that open spaces and areas of significant biodiversity or historic interest will be protected and development which results in the creation, restoration, enhancement, expansion and interconnection of these sites will be encouraged. There is a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure.
- 5.16.2 Policy N2 is relevant to the assessment of the impact of the proposal on nature conservation; all development is required to make net biodiversity and geodiversity gain where possible. Policy D1 also refers to the issue of nature conservation. One of the criteria of Policy D2 is that negative impacts on ecology, landscape and green infrastructure should be minimised (criterion 5).
- 5.16.3 As a result of the location of the site and the nature of the development proposed, the proposal would have off-site impacts on nature conservation. Natural England (NE) has produced interim advice with reference to the emerging strategic approach relating to Essex Coast RAMS, 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 Maldon District Council (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 'Zones of Influence' (Zol) of these sites cover the whole of the Maldon District.
- 5.16.4 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 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. Prior to the RAMS being adopted, NE advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) – NE have provided an HRA record template for use where recreational disturbance is the only HRA issue.
- 5.16.5 The application site falls within the Zol for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure. 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.

- 5.16.6 To accord with NE's requirements, an Essex Coast RAMS HRA Record would need to be completed by the LPA to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance.
- 5.16.7 To accord with NE's requirements and to accord with their consultation response along with the advice from ECC Ecology, a Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a 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 below sites? Yes

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 have a likely significant effect on the sensitive interest features of the European designated sites due to the nature, scale and location of the development proposed. Based on this and taking into account that NE's advice, it is considered that mitigation, in the form of a financial contribution, is necessary, in this case.

- 5.16.8 The applicant has advised that they would be willing to pay the necessary financial contribution for the additional units (currently £127.30 per dwelling) which would be secured through a Section 106 Agreement. Therefore, along with the on-site public open space to be provided as part of the development, it is considered that the off-site impacts of the development on nature conservation will be adequately mitigated.
- 5.16.9 With respect to on-site impacts on nature conservation, it has previously been accepted that subject to mitigation and enhancements, which could be secured as set out in the Ecological Impact Assessment submitted, the development would be acceptable. ECC Ecology has confirmed this view in response to the current application recommending that conditions to secure the mitigation measures identified in the Ecological Impact Assessment, a Construction Environmental Management Plan for Biodiversity and a wildlife friendly lighting scheme. Based on this, it is considered that the development would not have an unacceptable impact in relation to on-site nature conservation interests.

5.17 Planning Balance

- 5.17.1 It is important to recognise the balance between the LDP policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a 5YHLS. The tilted balance is engaged in this case and hence the LPA must give significant weight to the NPPF and its fundamental position of sustainable development which is the defining purpose of the planning system, as a material consideration.
- 5.17.2 The key priority within the NPPF, stated at paragraphs 7 and 8, 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 economic, social and environmental objectives as set out in the NPPF.

- 5.17.3 Notwithstanding the considerations as contained in those paragraphs, it is incumbent on the LPA, where appropriate, to consider, as a matter of general planning judgment, the site specific or scheme specific reasons for refusal.
- 5.17.4 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, against the harm which would arise from the proposed development.
- 5.17.5 The main benefits of the proposal are considered to be the social benefits associated with the contribution the development would make to the Council's housing land supply at a time when the supply is significantly below the 5-year minimum required. There would also be economic benefits.
- 5.17.6 As the development would not cause any material harm, the development proposed would be sustainable, and, as a result, be acceptable. It is recommended below that planning permission is granted subject to the imposition of conditions and all interested parties first entering into a S106 Agreement to secure the necessary obligations, as set out.

5.18 Other Material Considerations

5.18.1 Contamination

- 5.18.1.1 Policy D2 of the LDP states that 'where appropriate, development will include measures to remediate land affected by contamination and locate development safely away from any hazardous source.'
- 5.18.1.2 Likewise, paragraph 178 of the NPPF requires decisions to ensure that 'a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.'
- 5.18.1.3 The application has been supported by a Geoenvironmental Site Investigation report which does not highlight any significant risk of contamination. Therefore, in accordance with the comments made by the Specialist - Environmental Health in response to the previous application, it is considered that the site is suitable for the intended use with no need for further investigation or remediation.

5.18.2 Archaeology

- 5.18.2.1 The previous application was supported by an Archaeological and Geo-Archaeological Evaluation dated December 2019 and a condition was imposed to require development on site to be preceded by a programme of archaeological investigation. ECC Archaeology has advised that an archaeological evaluation and excavation have been previously undertaken for this site, which recorded a Saxon settlement, and that there is no requirement for any additional archaeological fieldwork in relation to the current application. Therefore, it is considered that the issue of archaeology has already been satisfactorily dealt with.

5.18.3 Waste management

- 5.18.3.1 Section C09 of the MDDG stipulates that the provision of waste management facilities within developments is fundamental to provide and maintain an attractive

and healthy environment. To do so, sufficient space should be provided for storage of bins in a convenient place and that access for collection vehicles has been considered.

5.18.3.2 The submitted refuse collection plan shows that all properties would be provided with on plot storage facilities and the refuse carrying distance to the collection points would be limited. Furthermore, all collection points would be easily accessible by refuse collection operatives. As a result, it is considered that adequate refuse provision has made for the future occupiers at locations that are convenient for both the occupiers and the collection vehicles, in accordance with the requirements of the MDDG.

5.18.4 Air pollution

5.18.4.1 Given that promotion of healthy communities and sustainable transport is a clear objective of the NPPF and the LDP, it is considered reasonable to impose a condition requiring details of mitigation measures against air pollution as was similarly required as part of the previous planning permission.

5.18.5 Broadband

5.18.5.1 Policy S1 of the LDP states that decisions will support the expansion of high speed broadband. Likewise, Policy S3 states that the Strategic Allocations must provide the requirements of site service and communication infrastructure, in particular high-speed broadband, with minimal disruption and need for reconstruction and allow for future growth in service infrastructure. Therefore, to ensure that this Policy criteria is met and to ensure that the proposed development is sustainable, the provision of superfast broadband should be secured via a condition, as recommended below.

5.18.6 Permitted development rights

5.18.6.1 It is considered that any alterations / extensions to the roofs of the proposed dwellinghouses may result in an unacceptable design (such as in case of installation of large sized dormers) or impact on the residential amenity of the neighbouring occupiers (for instance via the installation of dormer windows facing neighbouring properties). Furthermore, for plots where the garden space is not in excess of the required standards, residential extensions may result in the inadequate provision of private amenity space to the detriment of the living conditions of the occupiers. For these reasons it is considered reasonable that permitted development rights for the proposed dwellinghouses are removed for class A, B and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), as was the case for the previously approved scheme.

5.19 Pre-Commencement Conditions

5.19.1 Conditions 10, 11, 12 and 13 proposed in Section 8 below require details to be submitted prior to the commencement of development. This is because the conditions relate to matters such as construction and environmental management and surface water drainage which will need to be dealt with prior to the commencement of the works to prevent any irreversible harm to ecology and to ensure that the works are managed effectively during the construction phase.

5.19.2 Agreement to these conditions has been sought from the applicant and their response is awaited.

6. **ANY RELEVANT SITE HISTORY**

- **19/01208/FUL** - Residential development comprising the construction of 90 residential dwellings (Use Class C3), public open space, landscaping and associated infrastructure. – Approved 21.12.2020 following completion of a Section 106 Agreement.
- **21/05013/DET** - Compliance with conditions notification 19/01208/FUL (Residential development comprising the construction of 90 residential dwellings (Use Class C3), public open space, landscaping and associated infrastructure.) Condition 3 - Materials. Condition 6 - Hard landscaping. Condition 7 - Boundary treatment. Condition 10 - Construction method statement. Condition 11 - Construction environmental management plan. Condition 12 - Surface water drainage. Condition 13 - Flood plan. Condition 16 - Foul drainage scheme. Condition 17 - Vehicle parking. Condition 18 - Cycle parking. Condition 20 - Ecology impact assessment. Condition 21 - Biodiversity enhancement strategy. Condition 24 - External lighting. Condition 26 - Waste. Condition 27 - Air pollution. Condition 28 - Archaeological works. Condition 34 - Flood risk assessment. Condition 36 - Affordable housing. – Approved 14.05.2021.
- **21/00198/VAR** - Removal of condition 36 (affordable housing to NDSS) on approved planning permission 19/01208/FUL (Residential development comprising the construction of 90 residential dwellings (Use Class C3), public open space, landscaping and associated infrastructure.) – Refused 10.06.2021.

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Burnham Town Council	The extra housing is over development. Marsh Road is already inadequate to cope with the traffic flow and drainage and the design of the extra houses does not fit in with the semi-rural ambience of Burnham-On-Crouch being much more in the style of an intensely populated urban landscape.	Noted

7.2 **External Consultees**

Name of External Consultee	Comment	Officer Response
NHS Property Services	The proposed development is likely to have an impact on the NHS funding programme for delivery of primary healthcare provision within this area. A financial contribution of £21,850 is sought to mitigate the impact of the development on local GP services (Burnham Surgery) in addition to that secured as part of 19/01208/FUL.	Noted – the applicant has agreed to making a financial contribution towards local health services – refer to Section 5.8 of report.

Name of External Consultee	Comment	Officer Response
ECC Highways	No response.	Refer to Section 5.13 of report.
ECC SuDS Team	<p>Holding objection: due to addition of 15 additional properties, the risk of surface water flooding at the site as well as downstream of the site will change, therefore updated modelling calculations and design of the whole proposed 105 dwelling site should be provided as follows:</p> <ul style="list-style-type: none"> • Provide attenuation storage (including locations on layout plan) for all storm events up to and including the 1:100 year storm event inclusive of 40 percent climate change. • Limiting discharge rates to 1 in 1 year green field runoff for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. • For the updated site demonstrate limiting discharge rates to 1:1 Greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change • 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. • Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event. • Provide final modelling and calculations for all areas of the drainage system. • Detailed engineering drawings of each component of the final drainage scheme. • A final drainage plan which details exceedance and conveyance routes, Finished Floor Level (FFL) and ground levels, and location and sizing of any drainage features. • A written report summarising the final strategy and highlighting any minor changes to the approved strategy. • Strategy for water quality management should be provided based on simple index approach as highlighted in Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide as well as Construction Industry Research and Information Association (CIRIA) SUDS 	<p>Noted – further information is expected from the applicant to address the technical issues raised – refer to section 5.15 of report. However, a condition requiring approval of these additional/revised details is included below in case there is insufficient time to address these issues before the application is determined.</p>

Name of External Consultee	Comment	Officer Response
	manual C753.	
Environment Agency	No response.	
ECC Archaeology	An archaeological evaluation and excavation have been previously undertaken for this site, which recorded a Saxon settlement. There is no requirement for any additional archaeological fieldwork regarding this application.	Noted – refer to Section 5.18 of report.
ECC Education	No response.	Refer to Section 5.8 of report.
Natural England	Advise that a Habitats Regulations Assessment (HRA) is carried out to secure any necessary mitigation.	Noted – a HRA has been completed – refer to Section 5.16 of report.
Anglian Water Services	No objection – there is sufficient capacity to accommodate foul drainage flows and conditions are recommended in relation to the used water sewerage network.	Noted – the conditions recommended are included below – refer to Section 5.15 of report.
Essex County Fire and Rescue	No concerns raised in relation to access and advisory comments are made.	Noted.
Historic England	No objections.	Noted.
Essex Police Designing-out Crime	No concerns raised but recommend that: 1) a robust access control/visitor entry system without a 'Trades button' should be used on the apartment blocks to prevent burglary and other crime, and 2) the ground-floor apartment balconies are provided with secure boundary treatments rather than railings and opening into unrestricted space with ornamental shrub boundaries.	Noted.
Cadent Gas	No objection.	Noted.
Essex and Suffolk Water	No response.	
Essex Wildlife Trust	No response.	
Essex Bat Group	No response.	

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Specialist – Housing Manager	The Applicant is meeting the 40% Affordable requirement for this scheme and the affordable units meet minimum space sizes with regards to Nationally Described Space Standards. However, the affordable housing mix as proposed does not comply with the results of the 2021 Local Housing Needs Assessment. Therefore, Strategic Housing Services cannot support this Application.	Noted - refer to Section 5.7 of the report.
Specialist – Environmental Health	No response.	Refer to Sections 5.12, 5.14 and 5.18 of report.
ECC Ecology	The proposal includes the establishment of Public Open Space including a northern landscaped buffer and recreation routes around the periphery of residential areas. Subject to these areas being managed and promoted appropriately these will help to divert and deflect the daily recreational needs of the new residents away from the Habitats sites. A financial contribution towards RAMS would be required for the additional units. Conditions are recommended to secure the above along with the mitigation measures identified in the Ecological Impact Assessment, a Construction Environmental Management Plan for Biodiversity and a wildlife friendly lighting scheme.	Noted – the conditions recommended are included below and the applicant has agreed to making a financial contribution towards RAMS – refer to Section 5.16 of report.
Specialist – Heritage and Conservation	No objection - the development will have a limited impact on the setting of the nearest listed buildings because of the intervening distance and vegetation. The negligible harm caused would be outweighed by the benefits of the scheme.	Noted – refer to Section 5.11 of report.
Arboricultural Consultant	No response.	
Waste Management Officer	No response.	
Strategic Theme Lead - Place	No objection.	Noted.

7.4 Representations received from Interested Parties

7.4.1 No letters of representation have been received.

8. **PROPOSED CONDITIONS, INCLUDING HEADS OF TERMS OF SECTION 106 AGREEMENT**

HEADS OF TERMS OF SECTION 106 AGREEMENT

1. To provide an affordable housing contribution of 40% of the residential units on-site.
2. To pay a financial contribution towards educational provision if required by ECC.
3. To pay a contribution of £127.30 per dwelling towards RAMS (Essex Coastal Recreational Avoidance and Mitigation Strategy).
4. Provide the LEAP and public open space, to be maintained by a Management Company.
5. To provide a healthcare contribution of £21,850 for the NHS.

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 and retained in complete accordance with following approved drawings:

18.1318.1010 Rev.D SITE LAYOUT
18.1318.2000 Rev.B MATERIAL PLAN
18.1318.2001 Rev.B HEIGHT PLAN
18.1318.2002 Rev.B REFUSE STRATEGY
18.1318.2003 Rev.B PARKING
18.1318.2005 Rev.B GARDEN AREA
18.1318.2006 Rev.B TENURE DISTRIBUTION PLAN
18.1318.4000 NA32 PLANS AND ELEVATIONS
18.1318.4010 Rev.B NA21 PLANS AND ELEVATIONS
18.1318.4020 Rev.B NA21 V1 PLANS AND ELEVATIONS
18.1318.4030 NT30 PLANS AND ELEVATIONS
18.1318.4040 NT31 PLANS AND ELEVATIONS
18.1318.4050 Rev.B WOODMAN PLANS
18.1318.4060 Rev.B WOODMAN ELEVATIONS
18.1318.4070 Rev.B V1 WOODMAN ELEVATIONS
18.1318. 4080 Rev.B NA43 PLANS
18.1318.4090 Rev.B NA43 ELEVATIONS
18.1318.4100 Rev.B NT42 PLANS
18.1318.4110 Rev.B NT42 ELEVATIONS
18.1318. 5010 Rev.B NA22 PLANS AND ELEVATIONS
18.1318. 5020 Rev.B NA22 V1 PLANS AND ELEVATIONS
18.1318.5030 Rev.B NA34 PLANS AND ELEVATIONS
18.1318.5050 FLAT PLOTS 49-54 PLANS AND ELEVATIONS
18.1318.5060 FLAT PLOTS 55-60 PLANS AND ELEVATIONS
18.1318.8000 Rev.B SINGLE GARAGE
18.1318.8001 DOUBLE GARAGE
18.1318.8002 Rev.B CARPORTS
18.1318.8003 BIN AND CYCLE STORE
CSA/3734/145 Landscape Masterplan
3734_141-Hard Landscape Proposals Sheet 1of2

3734_142-Hard Landscape Proposals Sheet 2of2

3734_143- Soft Landscape Proposals Sheet 1of2

3734_144-Soft Landscape Proposals Sheet 2of2

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

- 3 The development hereby permitted shall be undertaken as set out on drawing 18.1318.2000 Rev.B MATERIAL PLAN hereby approved.

REASON: To ensure the external appearance of the development is appropriate to the locality in accordance with policies D1 and D3 of the approved Maldon District Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.

- 4 The development shall be implemented in accordance with the dwelling mix hereby approved, as follows:

Open market houses:

- 24no. two-bedroom houses
- 5no. three-bedroom houses
- 4no. four+ bedroom houses

Affordable units:

- 12no. one-bedroom flats
- 9no. two-bedroom houses
- 4no. three-bedroom houses

REASON: In order to ensure that an appropriate housing mix is provided for the proposed development taking into account the objective of creating a sustainable, mixed community contained in Policy H1 of the approved Maldon District Development Local Plan and the NPPF.

- 5 Within the first available planting season (October to March inclusive) following the occupation of the development the landscaping works as shown on drawings 3734_141, 3734_142, 3734_143 and 3734_144 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: To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Development Local Plan, the NPPF and the guidance contained in the Maldon District Design Guide SPD.

- 6 The development shall be implemented in accordance with the hard landscaping works as shown on drawings 3734_141, 3734_142, 3734_143 and 3734_144 and specifications attached to and forming part of this permission. The hard landscape works shall be carried out as approved prior to the first occupation of the development hereby approved and be retained and maintained as such in perpetuity.

REASON: To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Development Local Plan, the NPPF and the guidance contained in the Maldon District Design Guide SPD.

- 7 Prior to the occupation of the development hereby approved, the boundary treatments shall be implemented in accordance with the details shown on drawings 3734_141 and 3734_142 and specifications attached to and forming

part of this permission. The boundary treatment shall be retained and maintained as such in perpetuity.

REASON: To ensure that the development is as applied for and to protect the visual amenity of the area in accordance with Policy D1 of the approved Maldon District Development Local Plan, the NPPF and the guidance contained in the Maldon District Design Guide SPD.

- 8 The development shall be implemented in accordance with Tree Survey, Arboricultural Survey, Impact Assessment and Tree Protection Plan BHA_433_02, prior to the first occupation of the development hereby approved. No other trees shall be removed or felled unless otherwise agreed in writing by the Local Planning Authority.

REASON: To protect the visual amenity of the site in accordance with policy D1 of the Maldon District Development Local Plan, the NPPF and the guidance contained in the Maldon District Design Guide SPD.

- 9 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 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.

REASON: To prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Development Local Plan.

- 10 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- Wheel washing facilities

REASON: 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 in accordance with Policies D1 and T2 of the approved Maldon District Local Development Plan.

- 11 No development shall take place, including any works of demolition, until a Construction Environmental Management Plan (CEMP: Biodiversity) has been 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 and protect priority species in accordance with policy N2 of the Maldon District Local Development Plan.

- 12 No development shall take place until a 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:
- Provide attenuation storage (including locations on layout plan) for all storm events up to and including the 1:100 year storm event inclusive of 40 percent climate change.
 - Limiting discharge rates to 1 in 1 year green field runoff for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
 - For the updated site demonstrate limiting discharge rates to 1:1 Greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
 - 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.
 - Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
 - Provide final modelling and calculations for all areas of the drainage system.
 - Detailed engineering drawings of each component of the final drainage scheme.
 - A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
 - A written report summarising the final strategy and highlighting any minor changes to the approved strategy.
 - Strategy for water quality management should be provided based on simple index approach as highlighted in Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide as well as CIRIA SUDS manual C753.

REASON: To avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon District Local Development Plan.

- 13 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.

- REASON: To avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon District Local Development Plan.
- 14 Prior to first occupation of the development hereby approved, a Maintenance Plan for the approved surface water drainage system, detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities / frequencies, shall be 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 shall also be provided.
- REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to mitigate against flood risk in accordance with policy D2 of the Maldon District Local Development Plan.
- 15 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.
- REASON: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to mitigate against flood risk in accordance with policy D5 of the Maldon District Local Development Plan.
- 16 No development works above slab level shall take place until a Phasing Plan setting out the details of the phasing of the development has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in complete accordance with the approved Phasing Plan.
- REASON: To ensure the development is phased to avoid an adverse impact on drainage infrastructure in accordance with Policy D5 of the Maldon District Local Development Plan.
- 17 No development works above slab level shall occur until details of the foul drainage scheme to serve the development, including connection point and discharge rate, have been 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 avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon District Local Development Plan.
- 18 Prior to the occupation of the development the vehicle parking shall be hard surfaced, sealed and marked out in parking bays and the approved garages shall be erected in accordance with the plans and details hereby approved. Furthermore, a fast charging point shall be provided adjacent to at least one parking space for each new dwelling. The vehicle parking area and associated turning area shall be retained in this form in perpetuity. The vehicle parking and garages shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.
- REASON: To ensure that appropriate parking is provided so that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety in accordance with policies D1 and T2 of the approved Maldon District Local Development Plan.
- 19 Cycle parking shall be provided in accordance with the details hereby approved (drawing 18.1318.2003 Rev.B). The approved cycle parking shall be retained at all times.
- REASON: To ensure that cycle parking is proposed in accordance with the Vehicle Parking Standards SPD and policies D1 and T2 of the Maldon District Local Development Plan.

- 20 Prior to the occupation of the development hereby approved, a Residential Travel Information Pack for sustainable transport shall be provided to each dwelling free of charge. Details of the Packs shall be submitted to and have gained the prior written consent of the Local Planning Authority.
REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies S1 and T2 of the approved Maldon District Local Development Plan and the NPPF.
- 21 The development shall be implemented in accordance with the ecological mitigation measures and ecological enhancements as set out in the submitted Ecological Impact Assessment (CSA/3734/13), dated April 2021 and the Landscape Management Plan CSA/3734/07_C. The ecological enhancements shall be implemented as approved and retained as such thereafter for a minimum period of five years from the date of completion of the development.
REASON: To improve and enhance biodiversity value of the site in accordance with policy N2 of the Maldon District Local Development Plan.
- 21 No development above slab level shall take place until a Biodiversity Enhancement Strategy for Protected and Priority species, following the recommendations made within the Ecological Impact Assessment (CSA Environmental, April 2021), has been 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) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - e) persons responsible for implementing the enhancement measures;
 - f) 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.
REASON: To improve and enhance biodiversity value of the site in accordance with policy N2 of the Maldon District Local Development Plan.
- 22 The first floor windows on the side elevations of the dwellings adjacent to other dwellings and not the highway shall only be glazed with 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.
REASON: To protect the privacy and environment of people in neighbouring residential properties in accordance with policies D1 and H4 of the Maldon District Development Local Plan, the NPPF and the Maldon District Design Guide SPD.
- 23 Notwithstanding the provisions of Classes A, B and E of Schedule 2 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no garages, extensions or separate buildings shall be erected within the site without planning permission having been obtained from the Local Planning Authority.

REASON: In the interest of the amenity of neighbouring properties and to safeguard the character of the area in accordance with the requirements of policies D1 and H4 of the Maldon District Local Development Plan and the NPPF.

- 24 Prior to first occupation details of the external lighting strategy for the site (including the luminance and spread of light and the design and specification of the light fittings) 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 where external lighting is likely to cause disturbance along routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate technical specification). All illumination within the site shall be provided in accordance with the approved details and retained as such in perpetuity. There shall be no other lighting of the external areas of the site unless otherwise agreed in writing by the Local Planning Authority.

REASON: To minimise light pollution upon nearby property including residential properties, the adjoining rural countryside and in the interests of biodiversity and ecology in accordance with policies D1, D2 and N2 of the Maldon District Local Development Plan and the NPPF.

- 25 A strategy to facilitate superfast broadband for the future occupants of the dwellings hereby approved, either through below ground infrastructure or other means should be submitted to the Local Planning Authority for approval in writing. The method to facilitate superfast broadband shall be implemented in accordance with the approved strategy prior to the occupation of the relevant building.

REASON: To ensure that appropriate infrastructure is provided for the new development to meet the community needs, in accordance with policy I1 of the Maldon District Local Development Plan.

- 26 Prior to the first occupation of the dwellings hereby approved, the development shall be implemented in accordance with the waste management details included in the refuse strategy drawing 18.1318.2002 Rev.B and be retained as such in perpetuity.

REASON: To ensure that adequate refuse facilities are provided and in the interest of the visual amenity of the area in accordance with the requirements of policy D1 of the Maldon District Local Development Plan and guidance contained within the Maldon District Design Guide SPD.

- 27 No development works above ground level shall take place until a scheme of mitigation against air pollution has been submitted to and agreed in writing by the Local Planning Authority. The approved measures shall be implemented prior to the first occupation of the development and retained as such thereafter.

REASON: To minimise air pollution for the occupiers of nearby property including residential properties, in accordance with policies D1 and D2 of the Maldon District Local Development Plan and the NPPF.

- 28 Prior to first occupation of the development, the developer shall implement the access arrangements for the proposed development, as shown on drawing ST-2847-07 rev.1 (Appendix F of Transport Assessment). This should include but not be limited to:

- Providing pedestrian dropped kerbs and tactile paving immediately to the west of the proposed vehicle access and to the front of St Mary's School, with the precise location to be agreed with the Local Planning Authority; and
- Providing a minimum 2 metre width pedestrian footway across the site frontage and into the development.

- Any Traffic Regulation Orders required in the provision of the site access.

REASON: In the interests of highway safety, efficiency and accessibility, and to ensure suitable pedestrian access is provided in accordance with Policies T1 and T2 of the Maldon District Local Development Plan.

- 29 The pedestrian crossing to be provided on Marsh Road, as shown on drawing ST-2848 rev.1 (Appendix G of Transport Assessment) shall be provided prior to the first occupation of the development.

REASON: In the interests of pedestrian accessibility and amenity, and to protect the integrity of the existing public right of way in accordance with Policies T1 and T2 of the Maldon District Local Development Plan.

- 30 Prior to first occupation of the development, public footpath no 14 shall be improved to include hard surfacing from Marsh Road to the bridge across Pannel's Brook with full details to be submitted to and approved in writing by the Local Planning Authority. There shall also be no additional planting within 2 metres of the footpath.

REASON: In the interests of pedestrian accessibility and amenity, and to protect the integrity of the existing public right of way in accordance with Policies T1 and T2 of the Maldon District Local Development Plan.

- 31 Prior to first occupation of the development, the existing bus stops on either side of the B1021 Church Road (between the junctions with Marsh Road and the B1010 Maldon Road) shall be improved to Essex County Council specifications. Both northbound and southbound stops shall be provided with new poles, flags and timetable information display.

REASON: To promote public transport and accessibility in accordance with Policies T1 and T2 of the Maldon District Local Development Plan.

- 32 A schedule of glazing and ventilation for bedrooms and living rooms of dwellings fronting Marsh Road shall be designed to meet the noise criteria detailed in paragraph 4.17 of the Cass Allen Noise Assessment RP01-19251 rev.4 submitted as part of the application. The glazing scheme shall be implemented prior to occupation of the dwellings and retained as approved thereafter.

REASON: To avoid, mitigate and minimise adverse impacts on health and quality of life from noise in accordance with Policies D1 and H4 of the Maldon District Development Local Plan, the NPPF and the Maldon District Design Guide SPD.

- 33 The measures contained within the Flood Risk Assessment shall be fully implemented prior to the first occupation of the development and retained as such in perpetuity.

REASON: To ensure that the development is safe in terms of flood risk, in accordance with Policy D5 of the Maldon District Local Development Plan.

- 34 Prior to the first occupation of the development hereby permitted, there shall be a flood action plan in place to respond to any flood warnings issued by the Environment Agency. Details of the flood action plan shall have been submitted to and gained the prior written consent of the Local Planning Authority.

REASON: To ensure that the development is safe for its occupants in terms of flood risk, in accordance with Policy D5 of the Maldon District Local Development Plan.

- 35 Notwithstanding the plans as submitted no development works above slab level shall occur until plans showing how the affordable housing units will meet the Nationally Described Space Standards have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the plans and details as approved.

REASON: To ensure that the affordable housing units would meet the Nationally Described Space Standards and meet the Council's identified need

for affordable housing in accordance with Policies H1 and H2 of the Maldon District Local Development Plan.

INFORMATIVES

- 1 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.

If it is known or there is the likelihood that there will be the requirement to work outside of these hours or there will be periods where there will be excessive noise that will significantly impact on sensitive receptors Environmental Health at Maldon District Council must be notified prior to the works as soon as is reasonably practicable. The developer is advised to consult nearby sensitive noise premises and may be advised to apply for a Prior Consent under Section 61 of the Control of Pollution Act 1974. Care must be taken to prevent the pollution of ground and surface waters. This will include during works and the location of any hazardous materials including fuel from vehicles and equipment.

Where any soils that are known to be contaminated are being excavated or exposed a site waste plan must be prepared in order to store treat and dispose of the materials in accordance with the waste duty of care. It is recommended that advice is sought from the Environment Agency on this matter.

Where there is requirement for dewatering the site, the relevant consent must be sought from the Environment Agency.

Where there is a requirement to obstruct or alter watercourses a consent under section 23 of the Land Drainage Act must be obtained from Essex County Council.

- 2 All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.
- 3 The Public Right of Way (PROW) network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no 4 (Burnham-on-Crouch Parish) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

- 4 The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.
- 5 Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway.
- 6 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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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