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DIRECTOR OF STRATEGY,  
PERFORMANCE AND  
GOVERNANCE  
Paul Dodson

02 August 2022

Dear Councillor

You are summoned to attend the meeting of the;

**NORTH WESTERN AREA PLANNING COMMITTEE**

on **WEDNESDAY 10 AUGUST 2022 at 7.30 pm**

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

Please Note: All meetings will continue to be live streamed on the [Council's YouTube channel](#) for those wishing to observe remotely. Public participants wishing to speak remotely at a meeting can continue to do so via Microsoft Teams.

To register your request to speak please submit a [Public Access form](#) (to be submitted by 12noon on the working day before the Committee meeting). All requests will be considered on a first-come, first-served basis.

A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance

COMMITTEE MEMBERSHIP:

CHAIRMAN	Councillor Mrs M E Thompson
VICE-CHAIRMAN	Councillor J V Keyes
COUNCILLORS	M F L Durham, CC
	Mrs J L Fleming, CC
	S J N Morgan
	C P Morley
	R H Siddall
	E L Stephens
	S White





**AGENDA**  
**NORTH WESTERN AREA PLANNING COMMITTEE**  

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**WEDNESDAY 10 AUGUST 2022**

1. **Chairman's notices**

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 10)

To confirm the Minutes of the meeting of the Committee held on 7 July 2022, (copy enclosed).

4. **Disclosure of Interest**

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

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

5. **2100702FUL - Land North Of 48 Woodrolfe Road, Tollesbury, Essex** (Pages 11 - 86)

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

6. **22/00643/FUL - Claremont Garden Centre, Bryants Lane, Woodham Mortimer, Essex, CM9 6TF** (Pages 87 - 102)

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

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

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**Note:**

1. The Council operates a facility for public participation. This will operate only in relation to the consideration and determination of planning applications under Agenda Item Nos. 5 and 6.
2. The Committee may consider representation from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to participate is afforded only to those having previously made written representation.
3. Anyone wishing to participate must register by completing [the online form](#) no later than noon on the working day before the Committee meeting.
4. For further information please see the Council's website – [www.maldon.gov.uk/committees](http://www.maldon.gov.uk/committees)

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

**NOTICES****Recording of Meeting**

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

**Fire**

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**Health and Safety**

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**Closed-Circuit Televisions (CCTV)**

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**Lift**

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## **BACKGROUND PAPERS**

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

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

### **Development Plans**

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

### **Legislation**

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

### **Supplementary Planning Guidance and Other Advice**

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

## **Supplementary Planning Guidance and Other Advice (continued)**

### **ii) Essex County Council**

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

### **iii) Maldon District Council**

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

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

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**MINUTES of  
NORTH WESTERN AREA PLANNING COMMITTEE  
7 JULY 2022**

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**PRESENT**

Chairman	Councillor Mrs M E Thompson
Vice-Chairman	Councillor J V Keyes
Councillors	M F L Durham, CC, Mrs J L Fleming, CC, S J N Morgan, C P Morley, E L Stephens and S White
In attendance	Councillor M W Helm

**1. CHAIRMAN'S NOTICES**

The Chairman welcomed everyone present and went through some general housekeeping arrangements for the meeting. Members' attention was drawn to the Members' Update circulated prior to the meeting and particularly that application NW6 22/00536/HOUSE – Carr House, Carters Lane, Wickham Bishops had been withdrawn by the Agent.

**2. APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillor R H Siddall.

**3. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 15 June 2022 be approved and confirmed.

**4. DISCLOSURE OF INTEREST**

Councillors M F L Durham and Mrs J L Fleming disclosed a non-pecuniary interest as a Member of Essex County Council who were statutory consultees.

5. **21/01177/FUL - MILTON HOUSE, KISMET KEBABS LIMITED, ADJACENT MILTON HOUSE, MALDON ROAD, LATCHINGDON, CHELMSFORD, ESSEX CM3 6LF**

<b>Application Number</b>	<b>21/01177/FUL</b>
<b>Location</b>	Kismet Kebabs Limited, Adjacent Milton House, Maldon Road, Latchingdon, Chelmsford, Essex, CM3 6LF
<b>Proposal</b>	S73A application for ancillary storage (building A), gym/workshop for the site owners (building B), detached factory building (building C), building for demonstrations (building D), single storey front and rear extensions to factory (building E), maintenance and storage building (building E2), covered storage area (building F), sales and staff office, containers for product storage, cladding to existing buildings, entrance gates and fencing, hardstanding for parking and turning, and associated plant and landscaping.
<b>Applicant</b>	Kismet Kebabs
<b>Agent</b>	Mrs Lisa Skinner - Phase 2 Planning
<b>Target Decision Date</b>	18.07.2022
<b>Case Officer</b>	Kathryn Mathews
<b>Parish</b>	<b>PURLEIGH</b>
<b>Reason for Referral to the Committee / Council</b>	Major application due to the site area being over 1 hectare (ha). Member call-in – Councillor S White due to effect on the countryside, public interest, sustainability. Member call in – Councillor Fleming in consideration of the following policies as outlined in Purleigh Parish Council's responses: D1 Design Quality & Built Environment D2 Climate Change & Environmental Impact of New Development S1 Sustainable Development

It was noted that a Members' Update was circulated prior to the meeting that provided further details on floor space, staff numbers, parking provision and a number of amended conditions. A verbal update was also provided that further minor amendments to the conditions recommended would be required if Members were minded to grant planning permission for the development. Following the Officer's presentation, an Objector, Ms Matthams and the CEO of Kismet Kebabs, Mr Devadasan addressed the committee.

The Chairman then introduced the Senior Specialist: Environmental Health Officer, in attendance to deal with any technical enquiries and invited Members to put their questions.

A lengthy discussion ensued covering a range of issues, the main concerns related to the adverse impact on neighbouring amenity due to noise and malodorous emissions as a result of an extractor that emitted directly into a residential garden. At one point Members were minded to defer the application in order to have a site visit. However, it was acknowledged that the planning permission would allow for these issues to be addressed and therefore it was preferable not to delay the matter, which could, if delayed result in an appeal against non-determination. It was further noted that planning permission needed to be in place in order for the applicant to comply with a Noise Abatement Notice.



Councillor Durham proposed that the application be approved in accordance with the Officer's recommendation and impose an additional condition requiring the relocation and ducting details of the offending extractor. This was seconded by Councillor Stephens. The exact wording of the condition to be delegated to Officers in consultation with the Chairman. It was noted that the applicant was prepared to relocate the fan.

The Chairman put Councillor Durham's proposal to the Committee and it was approved.

**RESOLVED** that the application (including subject to a Section 106 Agreement) be **APPROVED** subject to the conditions outlined in the report and the Members' Update together with an additional delegated condition to require the relocation and ducting details of an existing extraction outlet away from the northern elevation of main factory building.

**6. 22/00536/HOUSE - CARR HOUSE, CARTERS LANE, WICKHAM BISHOPS, CM8 3LF**

<b>Application Number</b>	<b>22/00536/HOUSE</b>
<b>Location</b>	Carr House, Carters Lane, Wickham Bishops, CM8 3LF
<b>Proposal</b>	Proposed two storey side extension, an adjoining double garage to the front with office space above and a new front porch design
<b>Applicant</b>	Mr Butler
<b>Agent</b>	Mr Dickens – Design Designed Ltd
<b>Target Decision Date</b>	15.07.2022
<b>Case Officer</b>	Jade Elles
<b>Parish</b>	<b>WICKHAM BISHOPS</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In by Councillor Simon J N Morgan for Policy D1

It was noted from the Members' Update that this application had been **WITHDRAWN**.

**7. 22/00633/FUL - ALBANY ORCHARDS, OLD LONDON ROAD, WOODHAM WALTER, CM9 6RN**

<b>Application Number</b>	<b>22/00633/FUL</b>
<b>Location</b>	Albany Orchards, Old London Road, Woodham Walter, CM9 6RN
<b>Proposal</b>	New driveway from existing access towards front of house.
<b>Applicant</b>	Mr Robert Lee
<b>Agent</b>	Ms Annabel Brown – Annabel Brown Architect
<b>Target Decision Date</b>	25.07.2022
<b>Case Officer</b>	Jade Elles
<b>Parish</b>	<b>WOODHAM WALTER</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In by Councillor M F L Durham for policy reason H4

It was noted that a Members' Update had been circulated prior to the meeting that provided responses from Statutory Consultees. Following the Officer's presentation, the Agent, Ms Brown, addressed the Committee. The Chairman then opened the discussion.

Councillor Durham, having called in the application said his position had changed since the previous submission. The visible impact was significantly reduced in the new design, with safer access due to better visibility. He proposed that the application be approved contrary to the Officer's recommendation for the reason that the adverse impact on the rural surroundings was insignificant and a suitable condition be included that the driveway be compliant with Essex County Council Highways standards and no lighting to be included in the development. It was further agreed that the materials and design of the gate and the access road and associated landscaping be conditioned along with applying the standard conditions, the Highways Authority conditions and an informative in respect of protection to the hedges adjoining the highway and the approved access. This was seconded by Councillor Keyes.

The Chairman put Councillor Durham's proposal to approve the application contrary to the Officer's recommendation to the Committee and it was agreed.

**RESOLVED** that the application be **APPROVED** subject to standard conditions and additional conditions relating to highways safety, lighting and gate design.

There being no other items of business the Chairman closed the meeting at 9.20 pm.

MRS M E THOMPSON  
CHAIRMAN



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
10 AUGUST 2022**

<b>Application Number</b>	<b>21/00702/FUL</b>
<b>Location</b>	Land North Of 48 Woodrolfe Road, Tollesbury, Essex
<b>Proposal</b>	Create residential specialist neighbourhood for older people, consisting of 29 affordable dwellings and community hub building, with associated landscaping and infrastructure.
<b>Applicant</b>	Mr Rob Scott - Lewis & Scott Retirement Living Ltd
<b>Agent</b>	N/A
<b>Target Decision Date</b>	12.08.2022
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>TOLLESBURY EAST</b>
<b>Reason for Referral to the Committee / Council</b>	Major Application

**1. RECOMMENDATION**

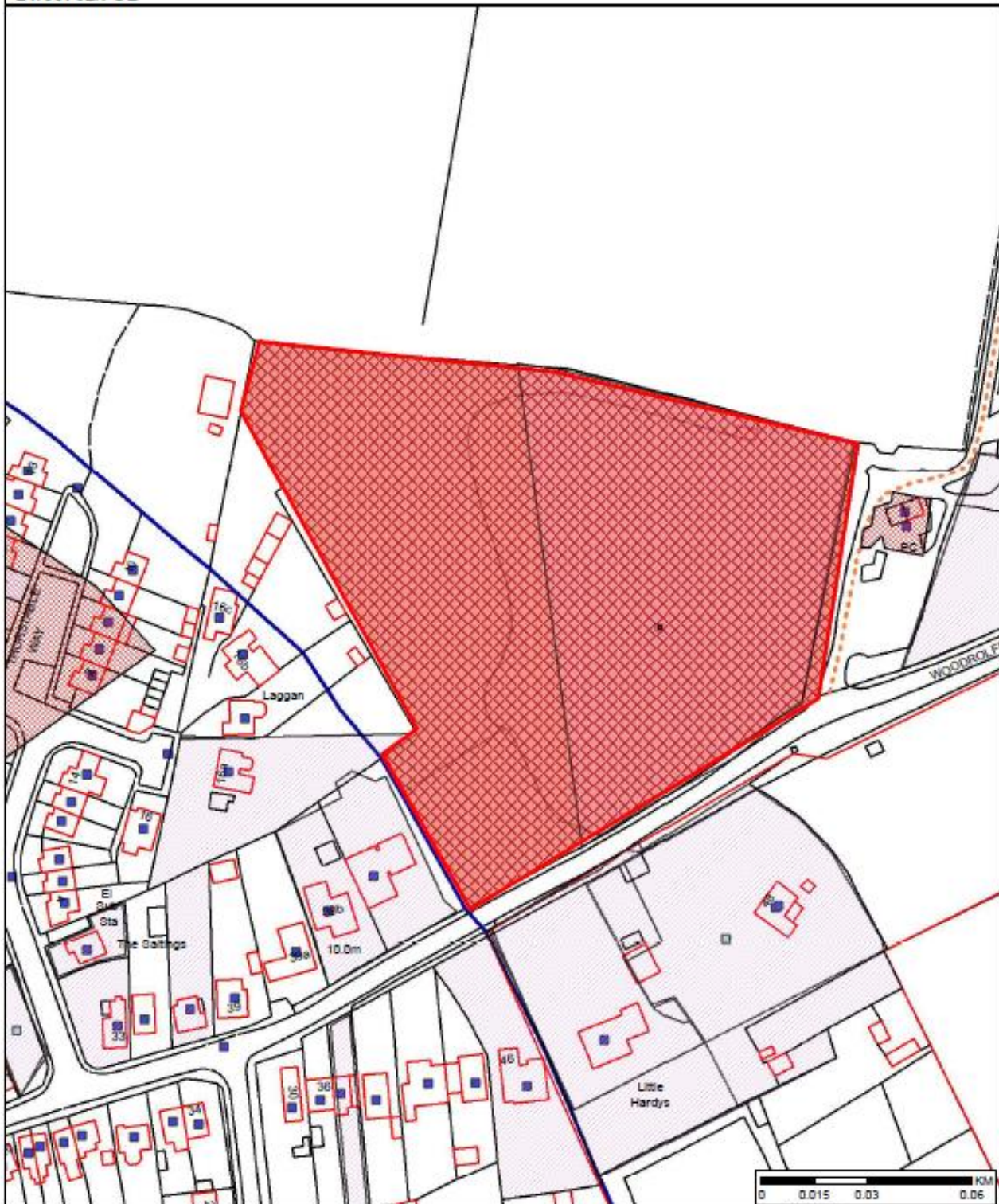
**APPROVE** subject to the applicant entering into a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the planning obligations and subject to conditions as detailed in Section 8.


**2. BACKGROUND**

- 2.1 The planning application was originally presented to the North Western Area Planning Committee on 30 March 2022. The application was deferred by the Committee in order to address concerns raised by Officers and Members. It is noted that matters of concern included the principle of the proposed development and its impact on the character the character and appearance of the area.
- 2.2 Following extensive discussions with the Applicant several elements of the development have been revised as they are detailing in the updated report below.
- 2.3 The report previously presented at the North Western Area Planning Committee is attached at **APPENDIX A**.

**3. SITE MAP**

Please see below.



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Not Set
	Date:	09/03/2022
www.maldon.gov.uk	MSA Number:	100018588

#### **4. UPDATE FOLLOWING DEFERRAL OF THE APPLICATION**

- 4.1 As noted above several elements of the proposed development have been revised since the presentation of the development at the North Western Area Planning Committee on 30 March 2022. The revised elements of the development, as well as the main material planning consideration that need re-assessment are discussed below.

#### **5. SUMMARY**

##### **5.1 Proposal / brief overview, including any relevant background information**

- 5.1.1 The proposed development seeks permission for the erection of a residential scheme to provide sheltered accommodation for people over 60 years of age, including community hub building and associated landscaping and infrastructure. Since the deferral of the application, the following revisions have been incorporated to the proposed development:

- The number of units proposed on site has been reduced to 25, a reduction of four units from the originally proposed development (29 units).
- It is proposed that the development would provide 50% affordable housing, including eight affordable rented units (an increase of four from the original submission), 4 shared equity affordable units and 0.5 units as a commuted sum. An equity and income cap are proposed to the proposed shared ownership units. The income restriction would be up to £18,000 per annum for a single household and up to £31,350 per annum for a couple household. With regard to the equity and savings cap, it is proposed that they should not exceed twice the value of the new property.
- Following the reduction of the number of units of site the layout of the development has been amended and the density of the site has been reduced. The dwellings are more spaced out and those adjacent to the southern boundary of the site are set further back from the boundary with the public highway (minimum 8 metres back from the highway).
- The housing mix proposed has been revised as follows:
  - 11no. one-bedroom units, all affordable units, 4 shared ownership units and 7 affordable rented;
  - 8no. two-bedroom units, of which 1 affordable rented unit;
  - 6no. three-bedroom units, all market housing.
- With the exception of units 7-10 which is a two-storey block of flats, the rest of the proposed units are bungalows and chalet style dwellings. All dwellings are semi-detached, with the exception of a terrace on the western part of the site, units 23 to 25.
- The overall design of the units remains unaltered with the exception of some minor changes to the proposed units on plots 1-2, 11-12, 17-18, 19-20 and 21-22. These changes incorporated include aligned eaves heights between the main roofs and features, such as canopies, and gable projections, simplification of the roof design and reduction of the size of the dormer windows. Furthermore, the proposed semi-detached properties are now proposed to be symmetrical, with simpler and neater roof forms.

- All dwellings are proposed to be compliant with building regulations M4(ii) - accessible and adaptable dwellings, with plots 5, 6, 17 and 18 (affordable rented unit) being M4(iii) – wheelchair user dwelling.
- The Applicant also states that proposal would result in an increase in the total amount of green space (from 57% to 60.35%) resulting in net biodiversity gain greater than 10%.
- It is also noted that the Applicant would source a minimum of 50% of its costs from local and independent suppliers.
- The proposed revised scheme would provide 48 parking spaces, an increase of four from the previously proposed development.

## 5.2 Conclusion

- 5.2.1 The revised scheme has been submitted following lengthy discussions between the Applicant and the Local Planning Authority. The revised development has been assessed against the Council's adopted policies and relevant material planning considerations, particularly in relation to the concerns that resulted in the application being recommended for refusal.
- 5.2.2 The main amendments to the scheme are addressed in detail in section 5.1 above. The revised development still proposes residential sheltered accommodation for older persons. However, the number of units proposed on site has been reduced by four (from 29 to 25), the housing mix in terms of type and tenure of accommodation has been revised to provide a mixture of market, affordable sales and affordable rented units and further restrictions in terms of income and equity caps have been introduced.
- 5.2.3 The Council cannot demonstrate a Five Year Housing Land Supply (5YHLS) and therefore, the tilted balance is engaged. As such, when the most important policies of the plans are out of date, 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.
- 5.2.4 It is considered that the revised scheme, by reason of the reduction of the quantum of development proposed, the introduction of a mix of housing types and tenures and the suggested eligibility restrictions, would be able to provide a housing scheme that meets the local housing needs and supports mixed communities in accordance with the National Planning Policy Framework (NPPF). Following revisions, the originally proposed objections in relation to the affordable sales element of the scheme and the unidentified need for the quantum of such a specific type of development in this area are no longer raised.
- 5.2.5 Although the harm of the development on the character and appearance of the area is acknowledged, the benefits arising of the development shall be weighed against the visual harm, which has significantly been reduced from the previously proposed scheme. It is considered that the revised proposal would result in benefits that would weigh significantly in favour of the proposed development, by way of the provision of housing that meets the Council's needs and the adverse impacts of the development on the character and appearance of the area would not significantly or demonstrably outweigh those benefits. Therefore, the revised development is considered, on balance and for the reasons explained above, acceptable in terms of its impact on the character and appearance of the area.



- 5.2.6 In light of the above, Officers consider the revised development acceptable and recommend approval of the application subject to conditions and a legal agreement securing necessary planning obligations.

## **6. MAIN CONSIDERATIONS**

### **6.1 Principle of Development**

- 6.1.1 It is noted that one of the main concerns in relation to the development as originally proposed related to the principle of the proposed development and in particular in relation to the lack of sufficient information demonstrating that the development would constitute Affordable Housing in its entirety and that there is an identified need for this quantum and type of development in the area that cannot be met elsewhere in the District. Furthermore, Officers were not satisfied that the proposal would meet the needs of residents of the District that are not met by the market. Concerns had also been raised with regard to the tenure split of the affordable housing which did not comply with the 75 affordable rented / 25 affordable sales requirements identified by the Housing Senior Specialist.
- 6.1.2 The current proposal has been revised to reduce the quantum of development from 29 to 25 units. Furthermore, it is proposed that 50% of the development to be affordable and 50% market housing. Of the 50% affordable units (12.5 units), 8 are proposed to be affordable rented and 4 shared ownership. 0.5 units are proposed as commuted sum.
- 6.1.3 Given that the development proposes the provision of affordable housing, it is considered reasonable that an assessment as to whether the housing would constitute affordable housing in accordance with the NPPF Glossary is carried out, as it did for the original proposal.
- 6.1.4 For clarity proposes it is reiterated that there are two elements for a development to constitute affordable housing; one relates to the affordability of the buildings and the other to the affordability eligibility criteria for people that are going to be able to access the affordable units. The development should therefore be assessed against both elements.
- 6.1.5 No concerns were previously raised regarding the affordable rented element of the scheme and its compliance with the affordable housing requirements as this would have to accord with the Government's rent policy for Social rent and Affordable rent. Therefore, no objection is raised to this element of the revised development.
- 6.1.6 Within the NPPF Glossary it is stated that there are four different types of affordable housing, including those sold at a discount of at least 20% below local market value. It is also stated that *"Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households"*.
- 6.1.7 A number of concerns were previously raised in relation to the discounted sales element of the development. It was considered that it had not be demonstrated that the discount proposed reflected an accurate representation of the discount from the local market value of properties that fall within the category of housing proposed (retirement or sheltered housing).
- 6.1.8 Although the Affordable Housing Statement submitted with the revised proposal does not specify the price of the proposed affordable shared ownership units, it is stated

that this would be at 80% of the market value. It is also stated that a legal charge would be secured to the title of the property to ensure that the property would only be able to be sold at 80% of the market value in perpetuity. This can be secured through a legal agreement as well as the provision of a proper assessment of the market value of the property at the sales and re-sales time. Subject to a signed legal agreement securing the discounted sales price of the shared ownership properties, no objection is raised in that respect.

- 6.1.9 Another issue raised by officers at the time of the originally submitted application was that relating to the suggested income level, which is also a consideration when it comes to eligibility criteria for accessing affordable housing. Following discussion with the Applicant, it has been agreed that the cap to the income level of the people eligible to purchase the shared equity properties would be applied. The income cap would target the household income levels that are equal to or below the bottom 1/3 (following deduction of the percentage of those eligible to rented accommodation) of that for people living in the Maldon Rural North Sub-Area that are aged 60 and over. On the basis of that the income cap for a single household would be at £18,000 per annum and up to £31,350 per annum for couple households. It is considered that this assessment of the income cap is reasonable, and it would target those whose needs are not met by the market or affordable rented properties.
- 6.1.10 For ease of reference, it is reiterated that although an eligibility criterion in relation to equity level is not explicitly required in the NPPF, consideration should be had to the findings of the Council's Housing Needs Assessment. The Council's *"data shows that the majority of older persons households (81%) are owner occupiers, and indeed 74% are owner occupiers with no mortgage and thus may have significant equity which can be put towards the purchase of a new home"* (para. 9.12 of the Maldon District Local Housing Needs Assessment (LHNA)). It is considered that this is a material consideration as the NPPF requires affordable housing to target those whose needs are not met by the market. The revised proposal has taken into consideration the need for an income cap to ensure that the proposed shared equity units would be able to target those that cannot access market housing. The Applicant has sourced data for the Maldon Rural North Area to generate a methodology appropriate to the location. The income cap proposed would include both equity and savings of the future occupiers and it would be no more than twice the value of the new property. This is considered a reasonable equity cap as an eligibility criterion to target people whose housing need cannot be met by the market and are of 60 years of age and over. Officers have given consideration to the eligibility criteria for rented accommodation which allow people over 60 years of age to have access to savings up to £150,000.
- 6.1.11 In light of the above, and subject to a signed legal agreement securing the discounted sales of the properties, the income and equity caps and the age eligibility criterion, it is considered that the shared equity element of the development would be able to target those that cannot access the market, excluding those that are eligible for affordable rented accommodation. Furthermore, the proposed cascade mechanism to prioritise buyers from Tollesbury first, then Maldon and then the rest of Essex would secure that the development would meet the local housing needs.
- 6.1.12 With regard to the affordable housing split, it is noted that from the on-site proposed affordable units, eight will be affordable rented. This will be the 66.6% of the overall number of affordable units on site, with the remaining 33.4% proposed for affordable shared ownership. Although the proposed development would not fully comply with the required tenure mix as identified by the Housing Senior Specialist, which is 75% affordable / social rented and 25% affordable home ownership, it is noted that the development as proposed would provide a number of affordable units in excess of



the minimum policy requirement, which is 40% and as such, the overall amount of affordable rented units on site would be greater than that if the development was providing 40% affordable units (total of 7.5 affordable rented units opposed to 8 currently proposed). Furthermore, it is considered that the deviation from the required tenure mix is not significant (only 8.4%). It should be also highlighted that the revised proposal has increased the number of affordable rented units on site by four more units from the development as originally submitted to the Council for determination. Taking the above into account it is considered that proposed development would be acceptable in terms of the proposed tenure split of affordable housing and thus, an objection is no longer raised with regard to this element of the proposal.

- 6.1.13 The revised scheme proposes 50% affordable housing provision. To achieve this percentage, 12 units are proposed on site and 0.5 on a unit as commuted sum. It appears that the Applicant aims to over-provide affordable housing to add weight to be benefits of the scheme. The site is located outside the defined settlement boundaries and the proposal by reason of its location in a rural setting would result in harm on the character of the area. As the Council cannot demonstrate a 5YHLS, the tilted balance is engaged and therefore, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. On that basis, the Applicant's aim to add value to the scheme by over-provision of affordable housing is understood. However, this should be achieved by the provision of on-site affordable units as Policy H1 required, rather than commuted sums, as this could be considered manipulative to the planning system and the decision making of the application in order to achieve a favourable outcome.
- 6.1.14 According to the Planning Policy Guidance (PPG) *"Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:*
- *necessary to make the development acceptable in planning terms;*
  - *directly related to the development; and*
  - *fairly and reasonably related in scale and kind to the development."*
- 6.1.15 It is considered that the provision of 12 on-site affordable planning units would be sufficient to make the development acceptable in planning terms and that the balance of the affordable housing over-provision would weigh in favour of the proposed development. The proposed additional 0.5 units of commuted sum would not be a requirement to make the development acceptable in planning terms and therefore, seeking this amount through a Section 106 (S106) agreement would not meet the abovementioned tests for planning obligations. As a result, the Officers position is that this amount is not necessary to be sought through a legal agreement.
- 6.1.16 One of the main issues raised in the Officers report presented to this Committee on 30 March 2022 was that Officers were not persuaded that the need for the quantum of development proposed of the specific type of the development previously proposed had been justified.
- 6.1.17 As noted in the previously presented report, the Council has carried out a Local Housing Needs Assessment in 2021 and the findings of the assessment regarding needs for older people housing show a high level of surplus on Sheltered housing and a demand in market housing. The applicant, to respond to the concerns previously raised regarding the need and quantum of the specific type of housing

previously proposed (primarily market discounted sales), has revised the current proposal to incorporate market housing and a 48% affordable housing provision (excluding the 0.5 units of commuted sum). The number of discounted sales units has been reduced to four from the 24 previously proposed and additionally it has been secured that the proposed housing would be able to target the people that are not able to access market housing. It is therefore considered that the revised proposal would be able to better support mixed communities, as required by the NPPF, by providing a variety of housing types, including market housing that appears to be in shortage for sheltered accommodation, a small number of affordable sales, and also affordable rented units target those in the Council's waiting housing list.

6.1.18 Although the Maldon Council's Specialist Needs Housing Supplementary Planning Document (SPD) states that *"the expectation is that the majority of this significant older persons housing shortfall will be delivered where the greatest demand is, in Maldon, Heybridge and Burnham-on-Crouch where residents benefit from good access to public transport, shops and other key services"* it allows a level of flexibility for some specialist housing in other areas. As Tollesbury is one of the larger villages and no objection was previously raised in relation to the accessibility of the site to services, facilities and public transport and taking into account the suggested occupation restriction, it is considered that the revised development would be able to support in meeting the local needs.

6.1.19 In light of the above assessment, it is considered that the revised scheme, has overcome the previous concerns in relation to the principle of the development. In particular the concerns around the compliance of all elements of the development with the Affordable Housing criteria, the need of this quantum and type of development in this particular area and the insufficient information demonstrating that the proposal would meet the needs of residents of the District that are not met by the market.

## 6.2 Housing Need and Supply

6.2.1 The proposed revised development would provide the following housing mix:

- 11no. one-bedroom units, all affordable units, 4 shared ownership units and 7 affordable rented;
- 8no. two-bedroom units, of which 1 affordable rented unit;
- 6no. three-bedroom units, all market housing.

6.2.2 Although the number of three-bedroom properties has been increased by two additional units from the development as originally submitted to the Local Planning Authority, it would still remain a relatively small percentage (24%) when taking into consideration the development as a whole. Whilst it is accepted that the majority of the older population would prefer to downsize, and this is the aim of the development by providing the largest amount (76%) of small (one and two bedroom) properties, there is still expected that a small amount of the future occupiers would prefer larger properties, which would though meet special specification of accessible and adaptable homes. Furthermore, at times, a three-bedroom property could still be a sustainable downsize or people living in those properties would have a need for a carer. It is therefore considered that, whilst the mix does not weigh in favour of the proposal on balance, no objection is raised to the proposed amount of larger three-bedroom dwelling to provide a range to the housing mix.

### **6.3 Design and Impact on the Character of the Area**

- 6.3.1 Several concerns were previously raised in relation to the impact of the development on the character and appearance of the area are a result of the quantum of development proposed, the density, the layout, grain, design, scale and mass of the development and the loss of woodland.
- 6.3.2 As stated before, the site is located outside the defined settlement boundaries of the District, adjacent to the eastern boundary of Tollesbury. The site occupies an approximate area of 1.72 hectares and it comprises primarily a pasture field with a native woodland along the western boundary. The site forms the eastern fringe of the settlement and the Inspector assessed an appeal for the erection of 18 dwellings on the same site characterised it as noticeably rural having a clear relationship with the open agricultural fields to the north and south (Appeal Reference: APP/X1545/W/19/3239910, Application reference 19/00197/RES).
- 6.3.3 Following extensive discussion with the Applicant, the number of units on site has been reduced by four (from 29 to 25 units). This has reduced the density of the proposed development on site as well as addressed some concerns in relation to the previously contrived layout of the development. The previously proposed scheme was found to result in a gross residential density of 25 dwellings per hectare and a net density of 32 dwellings per hectare. The density of the revised scheme has been reduced to a gross density of 21.6 dwellings per hectare and a net density of 27.6 dwellings per hectare. Although the resultant density would still be high for a fringe rural location, it is considered that the revised scheme is an improvement from what was originally proposed to the Local Planning Authority (LPA), as it results in a scheme of a lesser density.
- 6.3.4 In relation to the layout, the revised scheme has resulted in the removal of the originally proposed long terrace on the eastern part of the site and has resulted in the majority of the properties being semi-detached allowing the provision of gaps between them. By reducing the number of properties, a more spacious layout overall has been achieved. Furthermore, concerns were previously raised in relation to the position of the development in very close proximity to the highway (Woodrolfe Road). The revised scheme shows the dwellings being located further back from the public highway, better corresponding to the established front building line and the build pattern. Whilst units on plots 5 and 6 sit forward the neighbouring dwelling to the west (39C Woodrolfe Road), the revised scheme has significantly improved from what was originally presented to the LPA. Taking also into consideration the established landscaped boundary, which is proposed to be retained and enhanced and the topography of the site, which appear to be located on a lower ground than the neighbouring dwelling to the west, on balance, it is considered that the slight forward position of this small scaled pair of semi-detached bungalows in relation to the adjoining property would not be materially harmful to the character and appearance of the streetscene. Therefore, it is considered that the revised layout has materially improved, corresponding better to the existing built pattern, respecting and representing better the fringe location of the site and the strong relationship that it has with the surrounding rural fields.
- 6.3.5 With regard to the mass and scale of the development, it is noted that with the exception of the units on plots 7 -10, which is a two storey block of four flats, the rest of the scheme comprises bungalows and chalet style dwellings. The prevailing character of the scheme would be single storey in nature with six properties being one-and-a-half storeys in height. That taken together with the reduction of the number of units on site, the more spacious gaps between the units, the removal of the previously proposed long terrace along the eastern part of the site and the

proposed two storey block of flats, is considered sufficient to overcome the previous concerns in relation to the overall scale and mass of the proposed development. Officers consider that the revised scheme would no longer represent an unacceptable development in terms of scale and mass when taken as a whole.

- 6.3.6 Alterations have also been incorporated to the design of the proposed dwellings to address some of the concerns around the detailed design and appearance of the proposed properties. The previously proposed part two-storey, part single-storey terrace has been omitted from the proposed development and replaced with two pairs of semi-detached bungalows. This has taken away one of the main design concerns relating to the poor link and relationship of the single-storey with the two-storey element.
- 6.3.7 Other changes incorporated, included the alignment of the eaves heights between the main roofs and features, such as canopies, and gable projections, simplification of the roof design and reduction of the size of the dormer windows. Furthermore, the proposed semi-detached properties are now proposed to be symmetrical, with simpler and neater roof forms. These minor changes to the design of the dwellings have achieved a more consistent and cohesive design throughout the site and it has resolved some problematic, contrived and convoluted architectural elements of the development. Overall, it is considered that the revised design of the dwellings is acceptable in design terms and it would not result in a detrimental impact on the character and appearance of the area.
- 6.3.8 Following the above assessment, it is considered that majority of the previously raised concerns have been addressed by the proposed development. Although the density of the scheme is still considered relatively high for this fringe rural location as well as the amount of development proposed and the development would still result in loss of part of the woodland, given that the Council cannot demonstrate a 5YHLS, the tilted balance is engaged. The scheme has been revised in a way to address the concerns that Officers raised in relation to the principle of the development, proposing a development that can meet the needs of those that cannot be met by the market, as well as a mix of housing to address the local housing needs and support mixed communities as required by the NPPF. On that basis, and although the harm of the development on the character and appearance of the area is acknowledged, the benefits arising of the development shall be weighed against the visual harm, which as noted above has significantly been reduced from the previously proposed scheme. It is considered that the revised proposal would result in benefits that would weigh significantly in favour of the proposed development, by way of the provision of housing that meets Council's needs and the adverse impacts of the development on the character and appearance of the area would not significantly or demonstrably outweigh those benefits. Therefore, the revised development is considered, on balance and for the reasons explained above, acceptable in terms of its impact on the character and appearance of the area.

#### **6.4 Developer Contributions**

- 6.4.1 Along with other key principles, policy S1(11) requires decision makers to *“Identify the capacity and constraints of local infrastructure and services and seek to mitigate identified issues through developer contributions including Section 106 agreement and / or Community Infrastructure Levy and other funding sources”*.
- 6.4.2 A document with the Updated Draft Heads of Terms accompanies the application, which include the suggested developer obligation. Below are detailed the general obligation that the applicant is willing to enter to:

- The scheme will provide 8x Affordable Rented homes and 4x Shared Ownership homes, as well as a commuted sum of 0.5 of an affordable dwelling in order for the Site to achieve 50% affordable housing.  
**[Officer comment: As discussed in section 6.1 above, it is considered that the provision of 12 on-site affordable planning units would be sufficient to make the development acceptable in planning terms and that the balance of the affordable housing over-provision would weigh in favour of the proposed development. The proposed additional 0.5 units of commuted sum would not be a requirement to make the development acceptable in planning terms and therefore, seeking this amount through a S106 agreement would not meet the tests for planning obligations. As a result, the Officers position is that this amount is not necessary to be sought through a legal agreement.]**
- To provide the multi-use community building to an agreed specification before the occupation of the 14th dwelling of the development.  
**[Officer comment: It is considered that the provision of the multi-purpose use building is a contribution that directly relates to scale and kind of the development which proposes to provide sheltered accommodation for an older population. The development meets the three tests of the planning obligation and therefore, this obligation is considered reasonable to be sought.]**
- To transfer the Social Heart Community Building to a management community and retain it in perpetuity.
- To make the necessary contributions as requested by the NHS.
- To make the necessary Recreation Disturbance Avoidance and Mitigation Strategy (RAMS) contribution to mitigate the recreational impacts of the development on the European nature Conservation Sites.
- To make any highway obligations including the production of a Travel Plan.
- To provide an off-site drainage strategy to improve the situation downstream at the industrial units.  
**[Officer comment: Given the known surface water issues on site and within the immediate area of the site and taking into account that the development would result in built form on-site and a large amount of hardstanding to provide parking and turning facilities as well as the road network within the site, it is expected that the development would result in increased surface water issues. For that reason, the suggested off-site drainage strategy contribution is considered reasonable to make the development acceptable in planning terms.]**

6.4.3 Matters in relation to age, income, equity restrictions and provision of a cascade mechanism to secure propriety to local residents will also have to be secured through a S106 agreement.

6.4.4 Although it has not been included in the Draft Heads of Terms, it is considered necessary that the provision, retention, future management and maintenance of the community open space, landscaping and woodland area shall be secured through a legal agreement. A Management Company with responsibility for future management and maintenance of the open spaces, footways, related lighting, street furniture, signage and all landscaping shall be formed. This would also have to be secured through a S106 agreement.

6.4.5 As the development is recommended for approval and the Applicant is willing to enter into a legal agreement with the LPA to secure the abovementioned developer

obligations and mitigate the impact of the development, it is considered that the previous reasons for refusal have been overcome, subject to a complete and signed S106 agreement.

## 6.5 Pre-commencement Conditions

- 6.5.1 Three pre-commencement conditions are recommended and approval for the use of these conditions is to be agreed by the applicant's agent.
- 6.5.2 Condition requiring the submission of details of a Construction Method Statement, a Construction Management Plan, a Landscape and Ecological Management Plan, a Construction Environmental Management Plan (CEMP: Biodiversity), a Reptile Mitigation Strategy and details for tree retention and protection are considered necessary to be submitted prior to the commencement of the development. This is because even any ground works or storage of materials and machinery on site can potentially impact upon and harm existing vegetation, biodiversity and protected species, the amenity of nearby residents as well as the highway network. Archaeological investigation conditions would also be required to be submitted to and approved in writing prior to the commencement of the development. This condition goes to the heart of the permission, given it should be complied with prior to the commencement of the development, as any archaeological findings would be affected by the first phase of any works at the site.
- 6.5.3 As a result, it is considered reasonable that the abovementioned conditions are required to be addressed prior to the commencement of the development.

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Statutory Consultees and Other Organisations (*summarised*)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Authority	No objection subject to condition.	Comments noted and conditions are imposed.
Natural England	The comments previously made (17.09.2021) remain unchanged.	Comment noted.
Ecology Consultant	No objection subject to conditions.	Comments noted and conditions are imposed.
Essex Police Designing Out Crime	No objection raised. It is also noted that in principle the proposed development may achieve a Silver Award.	Comments noted.
Essex County Fire and Rescue Services	No objection. The Access for Fire Service is satisfactory. Advice in relation to new roads and surfaces, building regulations, water supplies and sprinkler systems are provided within their response from the Applicant's information.	Comments noted.

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Archaeology	The comments previously made remain unchanged.	Noted.

## 7.2 Internal Consultees (*summarised*)

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health Specialist	The comments previously made (13 December 2021) remain unchanged	Noted.
Housing Specialist	<p>Strategic Housing fully supports this Application that will provide affordable housing to meet the needs of older people in the district.</p> <p>The total amount of affordable units exceeds Policy H1 requirement with a provision of 48% affordable.</p> <p>The tenure mix of the affordable as detailed in the Local Housing Needs Assessment 2021 requires a split of 75% Affordable / social rented and 25% Intermediate housing. Of the 40% Policy requirement, the Applicant is meeting the 75/25% tenure split.</p> <p>The Applicant has confirmed the affordable units will meet NDSS sizes.</p> <p>The Council will have 100% nominations to the affordable rented units for local people aged 60 and over with details of nominations / criteria of Applicants and cascade mechanism detailed in the Section 106 to the satisfaction of the Local Authority.</p> <p>The Intermediate / Shared Equity units will meet the definition/criteria set in the National Planning Policy Framework and will remain so in perpetuity as detailed in the Section 106 to the satisfaction of the Local Authority.</p>	Comments noted and discussed in the 'Principle of Development' and 'Developer Contributions' section of the report.

Name of Internal Consultee	Comment	Officer Response
	<p>The Applicant has proposed in the Affordable Housing Statement the provision of a Commuted Sum. Policy H1 details that Commuted Sums are accepted in exceptional circumstances and on the agreement of Members.</p> <p>The Applicant is providing an affordable unit as M4 (3) Wheelchair user dwelling (Bungalow - Plot 5). All other units on the site will be built to M4 (2) which are accessible and adaptable dwellings that can be adapted in the future to meet resident's needs.</p>	

### 7.3 Representations received from Interested Parties (*summarised*)

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

Objection Comment	Officer Response
Flooding issues	Noted and discussed in section 5.7 of the report.
Inappropriate topography for people with mobility issues	Noted and discussed in section 5.1 of the report.
Limited access to services and facilities	Noted and discussed in sections 5.1 and 5.10 of the report.
Traffic issues.	Noted and addressed in section 5.5 of the report.
Concerns regarding proximity to swage works.	Noted and addressed in sections 5.7 and 5.9 of the report.

7.3.2 **One** letter **commenting** on the application has been received and it is summarised below:

Supporting Comment	Officer Response
The development would potentially impact upon residential amenity of the nearby neighbour if not appropriate boundary treatment is in place.	It is noted that conditions securing the submission of the boundary treatment details, as well landscaping details has been imposed. The impact of the development on residential amenity is discussed within the original officer report.



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

**HEADS OF TERMS OF ANY SECTION 106 AGREEMENT**

- No unit shall be occupied other than by persons over 60 year of age;
- A cascade mechanism will be agreed to prioritise occupation of all units to people that live and/or have family connection in the Parish of Tollesbury, then people that live and/or have family connection in the District of Maldon and finally people that live and/or have family connection in the County of Essex.
- Affordable housing: 48% of the development would constitute affordable housing (8x Affordable Rented homes and 4x Shared Equity homes)
- The following restrictions would apply to the proposed Shared Equity units:
  - All properties to be at a discounted rate of 80% of the market value in perpetuity
  - Income cap: Single household to be up to £18,000 per annum and Couple households to be up to £31,350 per annum.
  - Equity and savings cap to be no more than twice the new home value.
- Health Care Contributions: financial contributions for health care provision as required by the NHS.
- Ecology: to provide a financial contribution in accordance with the RAMS scheme adopted by the Local Planning Authority (currently £137.71 per dwelling).
- Highways: financial contribution for off-site highways improvements if required by Essex County Council (ECC) Highways and to submit, agree and implement a Travel Plan.
- The provision, retention and future management and maintenance of community open space and strategic landscaping;
- To create a Management Company with responsibility for future management and maintenance of the children's play area, open spaces, footways, related lighting, street furniture, signage etc and all landscaping;
- The multi-use community building would be provided to an agreed specification before the occupation of the 14th dwelling of the development.
- To transfer the Social Heart Community Building to a management community and retain it in perpetuity.
- To provide an off-site drainage strategy to improve the situation downstream at the industrial units.

**PROPOSED CONDITIONS:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
**REASON:** To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in accordance with the following approved plans:  
CSL02 REV D  
Csl02 REV D  
PL1\_2\_10000 Rev D

PL1\_2\_20000 Rev D  
 PL1\_2\_14000 Rev D  
 PL3\_4\_20000 Rev B  
 PL3\_4\_10000 Rev C  
 PL3\_4\_14000 Rev A  
 PL5\_6\_10000 Rev C  
 PL5\_6\_20000 Rev B  
 PL7\_10\_10000 Rev B  
 PL7\_10\_10001 Rev C  
 PL7\_10\_20000 Rev A  
 PL7\_10\_14000 Rev A  
 PL11\_12\_10000 Rev D  
 PL11\_12\_14000 Rev D  
 PL11\_12\_20000 Rev E  
 PL13\_16\_20200 Rev A  
 PL13\_16\_11600 Rev B  
 PL17\_18\_10000 Rev C  
 PL17\_18\_20000 Rev C  
 PL17\_18\_14000 Rev B  
 PL19\_20\_10000 Rev C  
 PL19\_20\_14000 Rev C  
 PL19\_20\_20000 Rev C  
 PL21\_22\_20000 Rev B  
 PL21\_22\_14000 Rev A  
 PL21\_22\_10000 Rev B  
 PL23\_25\_14000 Rev A  
 PL23\_25\_10000 Rev B  
 SS.01 BW Rev C  
 TOLLES-SPEC-001 REV J  
 TOLLES-SPEC-002 REV L

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

3. The dwelling mix for the development hereby approved shall accord with the following stated housing mix:

- 11no. one-bedroom units, all affordable units (4 shared ownership units and 7 affordable rented)
- 8no. two-bedroom units (of which 1 affordable rented unit)
- 6no. three-bedroom units

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 guidance contained in the National Planning policy Framework.

4. The development hereby approved shall be carried out in a manner to ensure that residential accommodation on plots 5, 6, 17 and 18, hereby approved, comply with building regulation M4 (3) 'wheelchair user dwelling'. The rest of the development shall comply with building regulation M4 (2) 'accessible and adaptable dwelling'. The development hereby approved shall be retained as such in perpetuity.

REASON: To ensure the residential units hereby approved provides high quality and flexible internal layouts to meet the needs of an aging population in accordance with policy H3 of the Maldon District Local Development Plan, the National Planning Policy Framework, the Maldon District Specialist Needs Housing SPD (2018) and the Maldon District Local Housing Needs Assessment (2021).

5. No development above ground level shall commence until details or samples of the external finishing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and be retained as such in perpetuity.

REASON: In the interest of the character and appearance of the conservation area in accordance with policy D1 of the approved Local Development Plan and the guidance contained in the Maldon District Design Guide (2017) and the National Planning Policy Framework.

6. Prior to works above ground level, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority prior to any works occurring above ground level at the application site. These details shall include, for example:
- i. Proposed finished levels contours;
  - ii. Means of enclosure;
  - iii. Car parking layouts;
  - iv. Other vehicle and pedestrian access and circulation areas;
  - v. Hard surfacing materials;
  - vi. Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting);
  - vii. Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc, indicating lines, manholes, supports);
  - viii. Retained historic landscape features and proposals for restoration, where relevant.

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of any part of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.

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

REASON: To secure appropriate landscaping of the site in the interests of visual amenity and the character of the area, in accordance with policy D1 of the approved Local Development Plan and the guidance contained in the Maldon District Design Guide (2017) and the National Planning Policy Framework.

7. No development shall commence until information has been submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of BS5837:2012 in relation to tree retention and protection as follows:
- Tree survey detailing works required
  - Trees to be retained
  - Tree retention protection plan
  - Tree constraints plan

- Arboricultural implication assessment
- Arboricultural method statement (including drainage service runs and construction of hard surfaces)

The protective fencing and ground protection shall be retained until all equipment, machinery and surplus materials have been removed from the site. If within five years from the completion of the development an existing tree is removed, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, a replacement tree shall be planted within the site of such species and size and shall be planted at such time, as specified in writing by the Local Planning Authority. The tree protection measures shall be carried out in accordance with the approved detail.

**REASON:** To secure the retention of appropriate landscaping of the site in the interests of visual amenity and the character of the area and for their biodiversity value in accordance with Policies D1 and N2 of the Maldon District Local Development Plan and the Maldon District Design Guide.

8. Prior to any works above ground level, a Landscaping Management Plan for at least five years to show how the development would improve the part of the site adjacent to the woodland area shall be submitted to and approved in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.

**REASON:** To secure the retention and provision of appropriate landscaping on the site in the interests of visual amenity and the character of the area and for their biodiversity value in accordance with Policies D1 and N2 of the Maldon District Local Development Plan and the Maldon District Design Guide.

9. Details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the Local Planning Authority prior to first use/occupation of the development hereby approved. The screening as approved shall be constructed prior to the first use/occupation of the development to which it relates and be retained as such thereafter.

**REASON:** To ensure the use of appropriate details to safeguard the character and appearance of the area, in accordance with policy D1 of the approved Local Development Plan and the guidance contained in the Maldon District Design Guide (2017) and the National Planning Policy Framework.

10. Notwithstanding the provisions of Article 3 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 (other than incidental outbuildings not exceeding 10 cubic metres in volume) 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 provision and guidance as contained within the National Planning Policy Framework.

11. 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:

- a. the parking of vehicles of site operatives and visitors
- b. loading and unloading of plant and materials
- c. storage of plant and materials used in constructing the development
- d. wheel and underbody 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 submitted Local Development Plan.

12. Prior to first occupation of the development hereby approved, and as shown in principle on planning drawing No. CSL02 Rev D, the principle access shall be 5.5 metres wide with junction radius and footway on each side. The details to be agreed with the Highway Authority.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy T2 of the submitted Local Development Plan.

13. Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

REASON: To provide adequate inter-visibility between vehicles using the road junction/ access and those in the existing public highway in the interests of highway safety in accordance with policy T2 of the submitted Local Development Plan.

14. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

REASON: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety in accordance with policy T2 of the submitted Local Development Plan.

15. Prior to occupation of the development, the developer will construct a 2m wide footway on the northern side of Woodrolfe Road. The footway shall route from the proposed site access junction to the existing footway located to the east of the site as shown in DWG No. TOLLES-SPEC-001 Rev J.

REASON: To ensure the additional pedestrian traffic generated within the highway as a result of the proposed development in the interests of highway safety in accordance with policy T2 of the submitted Local Development Plan.

16. Prior to occupation of the development, the developer will construct 2no uncontrolled dropped kerb pedestrian crossings either side of the proposed development access on Woodrolfe Road as shown in principle within DWG No. TOLLES-SPEC-001 Rev J.

REASON: To ensure the additional pedestrian traffic generated within the highway as a result of the proposed development in the interests of highway safety in accordance with policy T2 of the submitted Local Development Plan.

17. Prior to first occupation of the development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local

public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and in the interests of highway safety in accordance with policy T2 of the submitted Local Development Plan and the guidance contained in the National Planning Policy Framework.

18. No development works above ground level shall occur until details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented as approved prior to the first occupation of the development.

REASON: To ensure the sustainable management of water, minimise flood risk and to minimise discharge of surface water outside of the curtilage of the site in accordance with policy D2 of the approved Maldon District Development Local Plan.

19. Prior to the commencement of the development the applicant shall submit in writing a construction management plan to the Local Planning Authority for approval. Within the construction management plan it must consider the following requirements:

The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours and to this effect:

- 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 noise 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 a 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.

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 provision and guidance as contained within the National Planning Policy Framework.

20. No works except demolition 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:
- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
  - A 300mm freeboard should be provided for the pond / basin above the top water level during 100yr plus 40 percent CC as per CIRIA SuDS Manual C753.
  - Detailed engineering drawings of each component of the drainage scheme.
  - Provide engineering site layout of the proposed drainage network at the site. This should include the following details: cover levels, invert levels, pipes dimensions, slopes, Pond / basin top and bottom levels as well as invert levels both at inlet and outlets, outflow manholes and pipes levels, and top water level in the attenuation pond/basin during 100year plus 40percent CC allowance
  - 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.

The scheme shall subsequently be implemented prior to occupation.

REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development. To provide mitigation of any environmental harm which may be caused to the local water environment. To ensure that the system installed is sufficient to deal with surface water occurring during rainfall events and not lead to increased flood risk and pollution hazard from the site in accordance with policy D2 of the approved Maldon District Development Local Plan and the guidance contained in the National Planning Policy Framework.

21. No works except for demolition 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 and retained as such in perpetuity.

REASON: To ensure that the development does not increase flood risk elsewhere and does not contribute to water pollution in accordance with policies D2 and D5 of the approved Maldon District Development Local Plan and the guidance contained in the National Planning Policy Framework.

22. Prior to the occupation of the development hereby approved, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities / frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided with the details to be agreed by the Local Planning Authority.  
REASON: To ensure that appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to and to ensure that the development does not increase flood risk elsewhere and does not contribute to water pollution in accordance with policies D2 and D5 of the approved Maldon District Development Local Plan and the guidance contained in the National Planning Policy Framework.
23. 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 ensure mitigation against flood risk in accordance with policies D2 and D5 of the approved Maldon District Development Local Plan and the guidance contained in the National Planning Policy Framework.
24. The dwellings hereby approved shall not be occupied until the car parking spaces and turning areas have been provided as shown on plan CSL02 Rev D. The car parking hereby approved shall be retained for the use of occupiers or visitors to the residential units in perpetuity.  
REASON: To ensure appropriate parking at the site, in accordance with policies D1 and T2 of the Maldon District Local Development Plan and the adopted Maldon District Vehicle Parking Standards.
25. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (PEA) Report Ref: 20-4058 (Lockhart Garratt Ltd, June 2021), Reptile Mitigation Strategy 21-1524 (Lockhart Garratt Ltd, December 2021), Reptile Mitigation Plan 4661/01/21-1565 (Lockhart Garratt Ltd, December 2021), Biodiversity Impact Assessment (Lockhart Garratt Ltd, June 2021) and Water Vole Survey Report Ref: 21-0481 (Lockhart Garratt Ltd, July 2021) as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination.  
REASON: To ensure appropriate protection to protected species and enhancement of habitats is provided in accordance with the guidance of the National Planning Policy Framework and policy N2 of the Maldon District Local Development Plan.
26. No development shall take place until a Final Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles has been submitted to and approved in writing by the Local Planning Authority.

The Final Reptile Mitigation Strategy shall include the following.

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.



- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance of the Receptor area(s).
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The Final Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

REASON: To ensure appropriate protection to protected species in accordance with the guidance of the National Planning Policy Framework and policy N2 of the Maldon District Local Development Plan.

27. No development shall take place (including any demolition, ground works, site clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements). This should include a Water Vole Method Statement which outlines any need for a further walkover survey to re-assess the Water Vole suitability and population on site.
- 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 ensure appropriate protection to protected species in accordance with the guidance of the National Planning Policy Framework and policy N2 of the Maldon District Local Development Plan.

28. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development. This should include details of management of the existing habitats including the lowland mixed deciduous woodland on site, reptile receptor areas and ditch D1 to the south, and newly created habitats.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

REASON: To ensure appropriate protection to protected species in accordance with the guidance of the National Planning Policy Framework and policy N2 of the Maldon District Local Development Plan.

29. A Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the Local Planning Authority following the recommendations made within the Preliminary Ecological Appraisal (PEA) Report Ref: 20-4058 (Lockhart Garratt Ltd, June 2021), and the Biodiversity Impact Assessment (Lockhart Garratt Ltd, June 2021).

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance.

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

REASON: To ensure appropriate enhancement of habitats is provided in accordance with the guidance of the National Planning Policy Framework and policy N2 of the Maldon District Local Development Plan.

30. A lighting design scheme for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

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

REASON: To ensure appropriate protection to protected species is provided in accordance with the guidance of the National Planning Policy Framework and policy N2 of the Maldon District Local Development Plan.

31. Prior to the occupation of the proposed development, a Waste Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details 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 the provision and guidance as contained within the Maldon District Design Guide.

32. No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has submitted an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site. Such archaeological assessment shall be approved by the Local Planning Authority and will inform the implementation of a programme of archaeological work. The development shall be carried out in a manner that accommodates such approved programme of archaeological work.

REASON: To protect the site which is of archaeological interest, in accordance with policy D3 of the Maldon District Local Development Plan.

33. No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has secured the implementation of a programme of archaeological work from an accredited archaeological contractor in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in a manner that accommodates the approved programme of archaeological work.

REASON: To protect the site which is of archaeological interest, in accordance with policy D3 of the Maldon District Local Development Plan.

34. Details of cycle parking shall be provided prior to the occupation of the development hereby approved in accordance with Maldon District Council's adopted standards. The approved facilities shall be secure, convenient, covered and retained as such in perpetuity.

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.

35. 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 appropriate 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.

36. No building hereby permitted shall be used until details of the number and location of electric car charging points in accordance with the adopted Vehicle Parking Standards SPD (2018) have been submitted to and approved in

writing by the Local Planning Authority. The charging points shall be provided in accordance with the approved details prior to the commencement of the beneficial use of the parking space within which they would be located.

**REASON:** To comply with the adopted Vehicle Parking Standards SPD (2018) in accordance with Policies D1 and T2 of the approved Maldon District Local Development Plan Maldon District Local Development Plan.

### **INFORMATIVES**

1. Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence. Therefore, the applicant must ensure that no mud or detritus is taken onto the highway.
2. The requirements above shall be imposed by way of negative planning condition or planning obligation with associated legal framework as appropriate.
3. Due to the proposed internal carriageway widths and the dimensions of the proposed turning head it is unlikely that the internal estate roads will be adopted by the Highway Authority.
4. Parking arrangements have not been considered as Maldon District Council are the parking authority and retain their own standards.
5. There shall be no discharge of surface water from the development onto the Highway.
6. All highway related details shall be agreed with the Highway Authority.
7. All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be addressed for the attention of the Development Management Team at SMO2 - Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford. CM2 5PU or emailed to [development.management@essexhighways.org](mailto:development.management@essexhighways.org)
8. The applicant should consult the Waste and Street Scene Team at Maldon District Council to ensure that adequate and suitable facilities for the storage and collection of domestic waste and recyclables are agreed, and that the site road is constructed to accommodate the size and weight of the Council's collection vehicles.
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 in that represents an acceptable risk to human health, the water environment, property and ecosystems and scheduled ancient monuments and cannot be determined as contaminated land under Part 2A of the Environmental Protection Act 1990 now or in the future.
10. 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.
11. Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control, or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.

If you believe you need to apply for consent, further information and the required application forms can be found at [www.essex.gov.uk/flooding](http://www.essex.gov.uk/flooding).

Alternatively you can email any queries to Essex County Council via [watercourse.regulation@essex.gov.uk](mailto:watercourse.regulation@essex.gov.uk).

Planning permission does not negate the requirement for consent, and full details of the work you propose will be required at least two months before you intend to start.

12. It is recommended that the developer seeks to discharge conditions at the earliest opportunity and in many respects, it would be logical to do so before development commences. This is particularly the case with conditions which begin with the wording "no development works above ground level shall occur until..." because this will help to ensure that the developer does not go to the risk of incurring costs from commencing development and then finding issues which are difficult to comply with or which may then require the correction of works that have been undertaken.
13. Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).
14. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
15. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
16. It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch / pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
17. The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
18. We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

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**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE**  
**30 MARCH 2021**

<b>Application Number</b>	<b>21/00702/FUL</b>
<b>Location</b>	Land North Of 48 Woodrolfe Road, Tollesbury, Essex
<b>Proposal</b>	Create residential specialist neighbourhood for older people, consisting of 29 affordable dwellings and community hub building, with associated landscaping and infrastructure.
<b>Applicant</b>	Mr Rob Scott - Lewis & Scott Retirement Living Ltd
<b>Agent</b>	N/A
<b>Target Decision Date</b>	01.04.2022
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>TOLLESBURY EAST</b>
<b>Reason for Referral to the Committee / Council</b>	Major Application

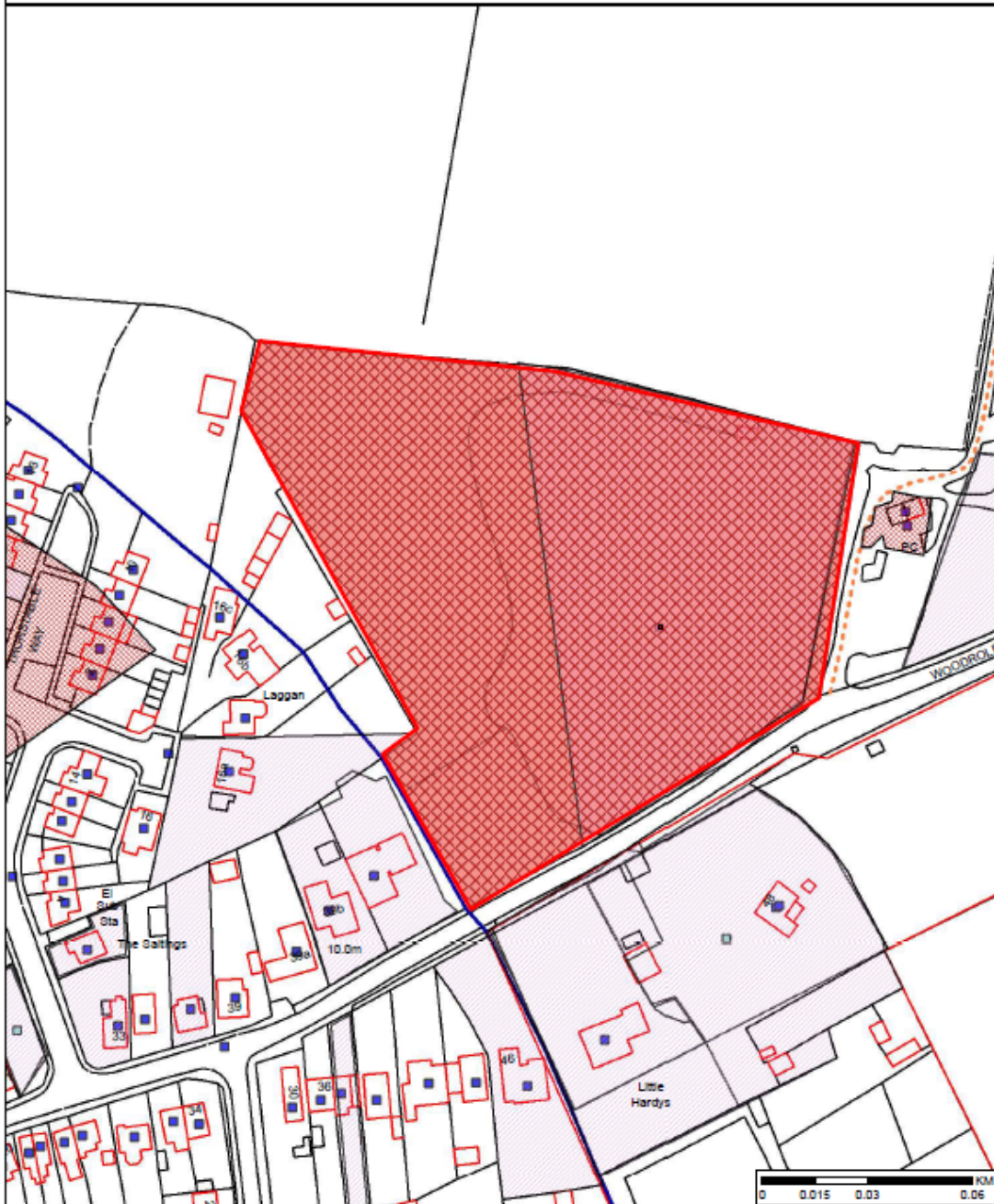
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see below.

NW Committee  
21/00702/FUL



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Maldon District Council 100018588 2014

[www.maldon.gov.uk](http://www.maldon.gov.uk)

Scale: 1:1,500

Organisation: Maldon District Council

Department: Department

Comments: Not Set

Date: 09/03/2022

MSA Number: 100018588



### 3. **SUMMARY**

#### 3.1 **Proposal / brief overview, including any relevant background information**

- 3.1.1 The site is located on the northern side of Woodrolfe Road, outside the settlement boundary of Tollesbury. The site is an open, fairly flat and undeveloped grass field, bounded by hedgerows to the north, east and south boundaries. To the west the boundary is demarcated by a dense wooded area, which separates the field with the developed area within the settlement boundary of the village.
- 3.1.2 To the east of the site lie some of the village public facilities, including the village hall and public car park and beyond that further to the east is the Tollesbury Marina and the employment estate of Tollesbury. To the north of the site are open fields and the village lies to the south west. The land to the south east is largely undeveloped, apart from two dwellings directly opposite the site (No. 48 Woodrolfe Road and Little Hardys). The development along Woodrolfe Road and within the settlement boundary is linear along the road, maintaining a fairly strong front building line, albeit with a deeper front garden the closer the houses are located to the countryside.
- 3.1.3 The dwellings vary in terms of scale, mass, design and finishing materials, including brown and red brick bungalows, detached chalet style dwellings with accommodation in the roof and a mixture of traditional red brick and rendered finished two storey dwellings.

#### Description of Proposal

- 3.1.4 Planning permission is sought for the construction of 29 residential properties to provide sheltered accommodation for people over 60 years of age, including community hub building and associated landscaping and infrastructure.
- 3.1.5 The development would be accessed off of Woodrolfe Road, with the main access road heading north and then northeast and at a right angle from the east to the west, around the dwellings nos 15- 25. A secondary access point will be also formed towards the west from the main access point to serve units 5 to 12. Some of the proposed dwellings will be fronting into the proposed estate road, whilst the majority will be fronting the communal garden area, being located centrally and to the north of the application site. An attenuation basin is proposed to be formed along the western boundary of the application site, including a wetland area. The proposed multi-purpose building would be located on the western part of the main road adjacent to and fronting the wetland area. A footpath is proposed to be created within the woodland on the western part of the application site. The documents submitted with the application suggest that the proposed development would incorporate dementia-friendly design principles.
- 3.1.6 The proposed development would include a variety of design and scales of residential properties. The details of the properties are as follows:
- Units 1 and 2: These chalet style dwellings would be located 5 metres away from the public highway and they would be fronting the estate road. The semi-detached properties would measure 19.7 metres wide, a maximum of 13.6 metres deep (excluding the overhang of the roof over the veranda to the rear), 2.3 metres high to the eaves with a maximum height of 7.2 metres. The dwellings would have a main cross-gabled roof, with gabled roof dormers to the front and rear and elements of the roof having a lower ridge height and other elements projecting beyond the main plain of the roof. The properties would have a recessed area centrally to the front to provide off-street parking and with a

rearward projection. Architectural features referencing the sail lofts along the marina have been incorporated.

- Units 3 and 4: This is a pair of semi-detached chalet style bungalows, with a double gable roof and a central gable link, incorporating a recessed section centrally to the front and a projection with verandas to the rear. The dwellings will be located 3.9 metres away from the highway and they would be fronting the estate road. The dwellings would measure a maximum of 19.6 metres wide, 13 metres deep, 2.5 metres high to the eaves, with a maximum height of 7.3 metres. Internally the development would accommodate two bedrooms, a bathroom, a WC and an open plan kitchen/dining/lounge area.
- Units 5 to 7: This is a row of three terraced chalet style dwellings with gable roofs running in an east west direction and central gable roof section. A projecting canopy is proposed to the rear over the verandas, as well as gabled roof porches to the front. The dwellings would maintain a 2.9 metres distance to the southern boundary with the highway and they would be fronting the proposed secondary access. Parking for those properties is provided to the front of the dwellings. The properties would measure 23.7 metres wide, 8.7 metres deep, 2.3 metres high to the eaves, with a maximum height of 6 metres. The dwellings would be one bedroom properties with a separate kitchen/dining/living area, a bathroom and a WC.
- Units 8-12: These units have a crescent-shape and are located on the western part of the application site, south of the woodland. The building would be part single, part two storey in height and it would accommodate five, one-bedroom units, of which two would be at first floor level. The building would measure a maximum of 25.2 metres wide and 13.6 metres deep. The height to the eaves of the single storey element would be 2.9 metres and 4.6 metres of the two storey element, whilst the maximum height would be 5.9 metres to the top of the single storey element and 7.8 metres to the top of the two-storey element. The building would have a main gable roof on both single and two storey elements with cut-slide roof sections to the south and gable features to the north. Parking for these units would be provided to the west of the building. The ground floor residential units will have access to verandas, whilst balconies are proposed for flats at first floor.
- Units 13 and 14: This is a pair of semi-detached units featuring two gable roofs on the north and south sections and a main gabled-roof link between them. Undercroft parking is proposed to be provide centrally between the two, two-bedroom units. The pair of semi-detached chalet style dwellings would measure a maximum of 23 metres side and 13 metres deep, 2.3 metres high to the eaves, with a maximum height of 6 metres. Covered verandas are proposed to the rear of the units.
- Units 15 to 20: This a row of six properties, comprising four single storey units and a two-storey element consisting of two flats. The building would measure an overall 42.1 metres wide and 6.7 metres deep. The height to eaves would be 2.8 metres for the single storey element and 4.3 metres for the two storey element, whilst the maximum height of the building would be 5.7 metres for the single storey element and 7.5 metres for the two storey element. The single storey units would have a gabled roof, with a projecting canopy over the verandas to the rear and the two storey element which will be of a V-shape will have a main gable roof, with gable features to the south east and a cat slide roof to the northwest. All six properties would be one-bedroom units, with parking being provided to the west. The ground floor residential units will have access to verandas, whilst balconies are proposed for flats at first floor.
- Units 21 and 22: This is a pair of semi-detached, two-bedroom bungalows, positioned in the north-eastern corner of the application site. The properties have a C-shape, incorporating a rearward projection. The dwellings have a main gabled roof with a cut slide section over the verandas and a gable projection to

the rear and they measure a maximum of 20 metres wide, 14.8 metres deep, 2.6 metres high to the eaves, with a maximum height of 6 metres. Parking for these properties is provided to the west of the dwellings.

- Units 23 and 24: This is a pair of semi-detached chalet style dwellings with undercroft parking provided centrally. The dwellings will have a rectangular shape and they would measure a maximum of 22.6 metres wide, 12.8 metres deep, 2.6 metres high to the eaves, with a maximum height of 7.4 metres. The dwellings will have a gable roof, with gabled roof dormers to the front and rear. The roof over the undercroft parking would be predominantly flat with a shallow hipped section to the front and rear. The properties would accommodate three bedrooms.
- Units 25 and 26: This is a pair of semi-detached C-shaped bungalows, with a gable roof, incorporating a cut slide section over the proposed verandas. Unit 26 also has a gable projecting feature to the rear. In terms of their size the properties would measure a maximum of 13.2 metres deep, 22.3 metres wide, 2.6 metres high to the eaves, with a maximum height of 6 metres. These are two bedroom properties with parking being provided to the northwest.
- Units 27 to 29: This row of properties would consist of two chalet style dwellings with accommodation provided in the roof (units 27 and 28) and a single storey dwelling (unit 29). The dwellings on plots 27 and 28 are of the same design and scale as units 23 and 24 and attached to them is unit 29, which is a two-bedroom, rectangular, gabled roof dwelling attached to the unit 28 with a part gabled, part flat roof over undercroft parking. The dwelling on plot 29 would measure 11.9 metres wide, 10.1 metres deep, 2.7 metres high to the eaves, with a maximum height of 6 metres.

- 3.1.7 A community multi-purpose building is proposed to be erected, which will measure 9.3 metres deep, 6.7 metres wide, 2.9 metres high to the eaves, with a maximum height of 6 metres. The building would have a gabled roof, with a fully glazed section adjacent to the proposed outdoor area. A mono-pitched roof canopy is proposed at the entrance of the building. The submitted plans show that the building would provide 16 covers (and an additional 16 at the outdoor area), but it is clear from the drawings that more covers could be provided within the building. The building would be located on the south-eastern part of the application site, adjacent to the proposed wetland area of the attenuation basin.
- 3.1.8 The submitted plans show a pumping station to the west of units 28 and 29 and an electric substation on the north-eastern part of the application site. No further details of the pumping station or the electric substation have been provided.
- 3.1.9 Although the submitted Design and Access Statement advises that the proposed development would provide 51 parking spaces; this document was not amended following the changes to the layout and the dwellings proposed. From the latest submitted proposed layout plan (SL02 Rev B) appears that a total of 44 parking spaces are proposed. The Design and Access Statement also advises that 44 cycle spaces will be provided; however, the plans show no specific details as to how these cycle spaces will be provided.
- 3.1.10 Pergolas are proposed to be installed over some of the parking areas and in the central open space; however, no details of the design and size of the pergolas have been submitted with the submission.
- 3.1.11 In terms of outdoor amenity space, all properties would have access to verandas or balconies. Due to the very nature of the proposed development, no private gardens in their typical domestic form are proposed. Units 15-29 will have access to open communal space provided centrally to those units, measuring approximately 750sqm.

A smaller landscaped area is proposed between units 3 and 4 and 5 to 7, measuring around 200sqm. As noted above, the existing woodland area on the north western part of the application site will be managed and a woodland walk is proposed to be created.

- 3.1.12 It is noted that all dwellings will meet M4(2) – accessible and adaptable dwellings building regulations accessibility standards and some of them will also meet M4(3) – wheelchair user dwellings accessibility standards.
- 3.1.13 It is noted that a number of documents accompany the application, including a Planning Statement; a Design and Access Statement; a Flood Risk Assessment; a Heritage Statement; a Landscape and Visual Impact Assessment; a Preliminary Ecological Appraisal; a Reptile Survey and Mitigation Strategy; a Water Vole Survey; a Needs Assessment; A Specialist Housing Needs Clarification Document; a Concept Plan Review; an Affordable Housing Statement; a Utilities and Wastewater Assessment; a Transport Statement; a Specialist Housing Needs Demand Affordability Assessment; a SuDS form and a Biodiversity Impact Assessment.
- 3.1.14 It should be noted that this application has evolved since the initial submission of the application and also a number of additional documents have been submitted during the process of the application. The main changes incorporated since the initial submission include the design and shape of the northwesternmost and north easternmost units (units 21, 22, 25 and 26) and the change in the housing tenure to provide 5 affordable rent units.

## **3.2 Conclusion**

- 3.2.1 The proposed development has been assessed against the policies in the Local Development Plan (LDP) and has taken into account all material planning considerations, including the previous permissions and appeals for similar types of residential development within the site.
- 3.2.2 The proposed development is to provide residential sheltered accommodation for older persons. The Council cannot demonstrate a 5 Year Housing Land Supply and therefore, the tilted balance is engaged. As such, when the most important policies of the plans are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework (NPPF) taken as a whole.
- 3.2.3 It is stated that the proposed development would provide a 100% affordable sheltered housing scheme for older persons. Assessing the development against the affordable housing criteria, it is concluded that the Applicant has not provided sufficient information to demonstrate that the development would be able to meet the criteria of affordable housing in terms of the affordable sales element, which constitutes the 86.2% of the overall scheme. Furthermore, it has not been demonstrated that the development would be able to provide affordable housing to meet the needs of those that cannot be met by the market within the District. Therefore, the proposal would constitute accommodation based on an aspiration lifestyle choice rather than an actual need.
- 3.2.4 Even if the necessary submissions were able to demonstrate that the proposal constitutes affordable housing in accordance with the NPPF, officers consider that the submitted evidence is lacking in clarity and has not been able to demonstrate that there is a need for this quantum of this very particular type of development, albeit no objection is raised to the provision of affordable housing per se.

- 3.2.5 Furthermore, for a scheme to be considered as a rural exception scheme and be policy compliant, it would be required to provide affordable housing in accordance with the required tenure split as identified by the Housing Senior Specialist (75 affordable rented /30 affordable sales) and the development proposed does not comply with this requirement.
- 3.2.6 The development would have a detrimental impact on the character and appearance of the area, due to the quantum of development proposed, the layout, grain, scale, partial loss of woodland and design of the development. Although, on balance, some sustainability credentials are recognised, in terms of accessibility to local amenities, public transportation and biodiversity enhancement, it is considered that it has not been demonstrated that the overall adverse impact would not be able to outweigh the benefits of the proposed development. Therefore, the development is considered unacceptable and contrary to both the LDP and the NPPF taken as a whole.

#### **4. MAIN RELEVANT POLICIES**

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

##### **4.1 National Planning Policy Framework 2021 including paragraphs:**

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47 – 50 Determining applications
- 54 – 57 Planning conditions and obligations
- 59 – 79 Delivering a sufficient supply of homes
- 81 – 85 Building strong, competitive economy
- 86 – 91 Ensuring the vitality of town centres
- 92 – 103 Promoting healthy and safe communities
- 104-113 Promoting sustainable transport
- 119-125 Making effective use of land
- 126-136 Achieving well-designed places
- 152-173 Meeting the challenge of climate change, flooding and coastal change
- 174-188 Conserving and enhancing the natural environment
- 189-208 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
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D4 Renewable and Low Carbon Energy Generation
- D5 Flood Risk and Coastal Management

- E1 Employment
- E3 Community Services and Facilities
- H1 Affordable Housing
- H2 Housing Mix
- H3 Accommodation for 'Specialist' Needs
- H4 Effective Use of Land
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services
- I2 Health and Wellbeing

#### **4.3 Relevant Planning Guidance / Documents:**

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Special Needs Housing SPD (2018)
- Maldon District Vehicle Parking Standards SPD (2018)

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development**

- 5.1.1 The Council is required to determine planning applications in accordance with its LDP unless material considerations indicate otherwise. This is set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990)), and through Government policy, at paragraph 47 of the NPPF.
- 5.1.2 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 as set out in the policy.
- 5.1.3 Alongside policy S1, policies S2 and S8 of the approved Maldon District Local Development Plan (MDLDP) seeks to support sustainable developments within the defined settlement boundaries. This is to ensure that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. Outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and when it is for a purpose that falls within a defined list of acceptable development.
- 5.1.4 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five Year Housing Land Supply (5YHLS).

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

*"For decision making this means:*

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

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

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

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

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

demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be 'sustainable development' through the three dimension tests of the NPPF' the LPA 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.

5.1.10 Paragraph 78 of the NPPF states that:

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

5.1.11 The application site is located outside of the defined settlement boundary of Tollesbury, a town that is classified as one of the 'larger villages' within the district, as detailed within policy S8 of the LDP. The impact of the proposed development on the character and intrinsic beauty of the countryside is assessed below as well as whether the development constitutes sustainable development.

5.1.12 As the Council cannot demonstrate an 5YHLS and the tilted balance is engaged, permission should be granted unless the adverse impacts of the development significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. In order to be able to assess those the development is assessed below against the three main dimensions of the Framework.

Environmental Dimension

5.1.13 Accessibility is a key component of the environmental dimension of sustainable development and also is the basis of criteria 2 and 5 of Policy H3. Policy T1 aims to secure the provision of sustainable transport within the District and Policy T2 aims to create and maintain an accessible environment.

5.1.14 The application site is located outside, abutting the defined settlement boundary of Tollesbury to the east. Tollesbury is one of the larger villages of the Maldon District providing a limited range of services and facilities and has a lower level of access to public transport. The nearest bus stop to the application site is located 650 metres away from the application site, providing links with Maldon, Colchester and Witham. The site, by reason of its location, has access to both the local amenities provided within the village and the marina. The majority of the services and facilities, including local shops, such as butcher and convenience store, the post office, hairdresser and some cafes and restaurants are provided within walking distance (less than 800 metres). Pharmacy and GP surgery facilities are also provided within 1km. Therefore, it is considered that the development would be able to meet the accessibility requirements as set out in page 21 of the Council's Specialist Housing SPD. Although consideration should be had to the topography of the site, which rises towards the settlement and slopes towards the marina, it is considered unlikely that this incline significant to an extent that would restrict, in principle, people of an older age to walk to the existing services and facilities.

5.1.15 Within the Applicant's submission reference is made to the approved outline application (reference number 14/01202/OUT) for the erection of up to 24 dwellings. It should be noted that this permission was followed by a Reserved Matters application (reference number 19/00197/RES) which was dismissed on appeal. Although in the Applicant's submission it is argued that the principle of development has been set, it should be noted that the outline permission is no longer extant and



therefore, the site does not benefit from a fallback position. It is also important to state that the outline permission was for conventional housing and not for specialist housing, including older people and people with disabilities and therefore, it should be acknowledged that the accessibility threshold is different from that that can be accepted from conventional housing.

- 5.1.16 The Council within the Specialist Housing SPD has identified the main settlements (Maldon, Heybridge and Burnham-on-Crouch) for the delivery of the majority of the older persons housing, because they are the most sustainable locations where residents are better able to access a range of everyday services and meet their social and housing needs. The site is not located within one of the main settlements; however, the policy allows a level of flexibility in terms of the provision of older persons housing, when it can be demonstrated that there is an identified need and development would meet the accessibility and design criteria for this type of housing. Although the need for the development is assessed below, it is considered that the Applicant in his submissions has demonstrated that the development has access to a level of services and facilities which can be accessed on foot. Whilst it is considered that this is not an ideal location for this type of development, considering the accessibility of the future occupiers of the development in larger settlements by public transport, due to the frequency of services, as well as health care facilities (e.g. hospital), on balance, it is accepted that the site is located in an area where some day to day services and facilities are provided within walkable distance, without the future occupiers being overly reliant on the use of private vehicles. It is therefore, considered, on balance, that the site is an acceptable location for such a development.
- 5.1.17 Policy D2 requires that all new development minimises its impact on the environment. The Applicant has advised that the development will promote energy efficient construction and use of resources and the dwellings would be energy efficient. However, the proposal does not involve the installation of energy generating equipment (e.g. photovoltaic panels) and therefore, this provision would limitedly weigh in favour of the proposed development.
- 5.1.18 The impact of the proposed development on the character and appearance of the area is further assessed below in the relevant section of the report. However, taking into consideration the recently dismissed appeal for erection of 18 dwellings at the application site, the overall quantum of development, density and layout proposed within this fringe location, initial concerns are raised in relation to the impact of the development on the character and appearance of the area. As noted above when the tilted balance is engaged adverse impacts of the development should weight against the benefits arising for that development. In order to identify the benefits of the development, consideration should be had to the needs that the development would meet, if developed. Within the section below, it will be assessed whether the need of the proposed development in this location has been demonstrated and whether it is able to identify any other adverse impacts.

#### Social Dimension

- 5.1.19 In terms of the social dimensions of sustainable development, the development would contribute towards the supply of housing within the District. As the proposal is for specialist housing, it should be demonstrated that it would be able to meet an identified need of the District and more particularly, a need that cannot be met elsewhere.

5.1.20 The application is accompanied by a number of supporting documents including an Affordable Housing Statement and an Updated Needs Assessment. The submitted documents state the development would consist of 29 affordable units. According to the Applicant's submission it is suggested that the development would involve 24 affordable sales (100% freehold) and following amendments during the process of the application, 5 affordable rent units.

5.1.21 The site is located outside the defined settlement boundaries abutting the edge of Tollesbury settlement to the west. According to Policy S8, there are circumstances where planning permission for development outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations may be granted provided that the intrinsic character and beauty of the countryside is not adversely impacted upon. One of those circumstances include rural exception sites for affordable housing (in accordance with Policy H5).

5.1.22 Policy H5 states that:

*“Outside of the defined settlement boundaries and strategic growth areas, land which may not otherwise be considered appropriate for residential development may be released for a Rural Exception Scheme for affordable housing development where there is an identified need within that parish or community for affordable housing.*

*Any Rural Exception Scheme must adhere to the following process:*

- 1) Engagement with local community and the undertaking of a local needs assessment in accordance with recognised guidelines; and then*
- 2) Selection and appointment of a suitable Registered Provider of affordable housing in association with the Council; and then*
- 3) Agreement with the Council on the quantum and composition of development most suitable to the locality based on an identified need, site availability, and an ‘open book’ viability assessment; and then*
- 4) Identification of a number of potential sites in the locality and selection of the most sustainable site, taking into consideration site availability, condition and capacity of existing infrastructure servicing the proposed scheme.”*

#### *Affordable housing*

5.1.23 Before the development is assessed against the above-mentioned criteria, it should be established, due to the Applicant's position, that the scheme is 100% affordable in nature, whether the development constitutes affordable housing. As noted above, following amendments during the process of the application, the development would involve 24 discounted sales units and 5 affordable rent units.

5.1.24 It should be noted that there are two elements for a development to constitute affordable housing; one relates to the affordability of the buildings and the other to the affordability eligibility criteria for people that are going to be able to access the affordable units. The development is therefore assessed against both elements below.

5.1.25 Within the NPPF Glossary it is stated that there are four different types of affordable housing, including those sold at a discount of at least 20% below local market value. It is also stated that *“Eligibility is determined with regard to local incomes and local*

*house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.”*

- 5.1.26 The documents accompanying the application advise that the proposed discounted sales residential units will cost 19% less than old existing bungalows and 39% less than new-build bungalows. To assess the level of discount the Applicant has considered the average cost of existing (not new-build) bungalows in the wider area of Maldon and new-build bungalows in the local area. No evidence of the real estate market analysis has been submitted with the application and as such, concerns are raised in relation to the comparatives that have been used to calculate the discount percentage. Furthermore, the proposed development would provide sheltered accommodation and it is known that residential properties with restrictions on occupancy, including age restrictions, are lower in price than conventional housing. It appears that for the real estate market analysis the price of conventional bungalows, and not bungalows for age restricted properties, has been used. Therefore, it is considered that the discount percentage suggested does not represent the real discount level of the properties when compared to equivalent type of housing (in this instance retirement or sheltered housing), which for the reasons stated above it is expected to be considerably less. Although the Applicant is willing to enter into an agreement with the Council to ensure that housing remains at a discount for future eligible households, for the reasons stated above, it is considered that it has not been demonstrated that the discount proposed reflects an accurate representation of the discount from the local market value of properties that fall within the category of housing proposed (retirement or sheltered housing).
- 5.1.27 The income level is also a consideration when it comes to eligibility for affordable housing. The Applicant proposes a maximum household pension income of £31,000 from Regional data. This pension income is based on average rather than lower pension income figures and does not make a distinction between the lowest pension income for a single or two persons household. As a result, a single person with a pension income of as high as £31,000 can have access to the proposed units. It is therefore considered that the eligibility criteria in terms of income level are so broad they would not be able to target those whose needs are not met by the market, as required by the NPPF.
- 5.1.28 Although an eligibility criterion in relation to equity level is not explicitly required in the NPPF, consideration should be had to the findings of the Council's Housing Needs Assessment. The Council's *“data shows that the majority of older persons households (81%) are owner occupiers, and indeed 74% are owner occupiers with no mortgage and thus may have significant equity which can be put towards the purchase of a new home.”* (para 9.12 of the Maldon District Local Housing Needs Assessment (LHNA)). It is considered that this is a material consideration as the NPPF requires affordable housing to target those whose needs are not met by the market. It is therefore considered, taking in to account the evidence within the LHNA, that without a restriction on the equity level, the development would not be targeted at those whose needs are not met by the market. This concern is also further exacerbated by a demonstrable number of the properties being two storey in nature and also being three bedroom.
- 5.1.29 For the reasons stated above, it is considered that it has not been demonstrated that the proposed discounted sales element of the development (24 out of 29 dwellings) would be able to meet the affordable housing criteria and therefore, target those whose needs are not met by the market. Subsequently, the development would be able to meet the needs of the district in terms of affordable housing.

5.1.30 Although for the reasons stated above, it is not considered that sufficient evidence has been submitted to demonstrate that the discounted sales element of the development constitutes affordable housing in accordance with the requirements set out in the NPPF, it is considered reasonable that the application is assessed as a rural exception site, given that the Applicant's argument is that the development is 100% affordable and there is a need for this type of development. Therefore, the development is assessed against the criteria of policy H5 in turn, below:

1) *Engagement with local community and the undertaking of a local needs assessment in accordance with recognised guidelines; and then*

5.1.31 The Statement submitted with the application advises that the Applicant during the Pandemic has engaged with a number of people aged 60+ to understand how their current properties were affecting their wellbeing and researched how the existing retirement housing was performing during the lockdowns. Although it is not disputed that the Applicant has made an attempt to engage with the local community, it is noted that no evidence of the research carried out and engagement strategy have been presented to the LPA and therefore, the level of engagement and the number of people that have been approached in comparison to the population of the village are unclear. Due to the lack of evidence demonstrating the research carried out and engagement strategy, it is not possible for the decision maker to conclude in relation to the accuracy of the findings.

5.1.32 The application is supported by a Planning Statement; a Needs Assessment; A Specialist Housing Needs Clarification Document; Specialist Housing Needs Demand Affordability Assessment and an Updated Needs Assessment in order to demonstrate the need for specialist housing for older people and people with dementia, as it is advised that the development has been designed with the dementia-friendly design principles. The assessment is based on Projecting Older Peoples Population Information (POPPI) data for population over 65 within Maldon, including projections. The Experian Data has been used for the assessment of the 66+ population of Tollesbury, including projections. However, given that there is no population data for 65+ with some form of health condition, including dementia, for Tollesbury specifically, the Applicant has used the available data for Maldon as a whole to project the need in Tollesbury considering the percentage of population living in Tollesbury in comparison to the District as a whole. This is an assumption that it is very likely to result in false findings. Therefore, the Applicant has not based the needs assessment on existing data, as these this is not available at this low level (Parish level). Due to the lack of a well-informed assessment, based on a questionnaire to the whole population of Tollesbury, it is considered that the housing need, in terms of number of dwellings, has not been accurately assessed and the outcomes of the assessment are dubious.

5.1.33 The Planning Practise Guidance advises that to identify the housing need of older people *"The age profile of the population can be drawn from Census data. Projections of population and households by age group can also be used. The future need for specialist accommodation for older people broken down by tenure and type (e.g. sheltered housing, extra care) may need to be assessed and can be obtained from a number of online tool kits provided by the sector, for example SHOP@ (Strategic Housing for Older People Analysis Tool), which is a tool for forecasting the housing and care needs of older people."* Although the Applicant has used Census data and has broken down the need by tenure and type, the approach taken to identify the housing need in the area of Tollesbury by using the percentage of the village's population is a simplistic and inaccurate way of calculating the housing need and therefore, it cannot be afforded significant, if any, weight. The

need is generally calculated at a District wide level than at a Parish level and this is what is reflected in the Council's Housing Needs Assessment.

- 5.1.34 Whilst the high percentage of population of an older age (65+) or the noticeable increase in the projected older population within the District or within the sub-areas of the District (e.g. Rural North) is not disputed, this argument on its own does not justify the housing need of older people. Especially, it does not demonstrate the need for such a quantum of development of such particular type of housing (24 discounted sales units).
- 5.1.35 To assess the housing need per tenure type, the Maldon District Housing Needs Assessment (MDHNA) has used SHOP@ and other resources to compare the findings. For housing with support, namely retirement/sheltered housing, the MDHNA suggests a base level of 125 units per 1,000 population aged 75 and over. The analysis also suggests a shortfall in the market sector (227 units) and a surplus in the affordable sector (426 units). By 2040, the total shortfall of 600 units is estimated which are all in the market sector with an apparent surplus of affordable sheltered housing (189 units).
- 5.1.36 Although it is accepted that the MDHNA has calculated the housing need for people over 75 years of age and the development is for people that are over 60, it is considered that existing surplus is significant and no accurate justification demonstrating a need for further affordable units has been put forward by the Applicant, considering the flaw in the assumptions made for the calculation of the housing need.
- 5.1.37 For the reason stated above and provided that the onus of proof is with the Applicant, it is considered that the evidence submitted cannot satisfactorily demonstrate the need for the 24 sheltered discounted sales units. Further assessment in relation to the quantum proposed in this location is carried out below.

2) Selection and appointment of a suitable Registered Provider of affordable housing in association with the Council; and then

- 5.1.38 Part of the proposed development, as amended, is to provide 5 affordable rented units. The Applicant has not provided evidence of the register provider willing to take over the affordable rent element of the development (5 units), but they have advised that they have applied to Homes England (Regulator of Social Housing) about becoming a Register Provider. Although some concerns are raised in relation to the current uncertainty around the appointment of a suitable Register Provider, the matter of securing these units as affordable rent to be taken over by a Register Provider would be able to be secured through the S106 agreement.

3) Agreement with the Council on the quantum and composition of development most suitable to the locality based on an identified need, site availability, and an 'open book' viability assessment; and then

- 5.1.39 The proposed development would involve 29 sheltered units for older people or people with disabilities, of which 24 are proposed to be discounted sales and 5 are proposed to be affordable rent. For the reasons explained above, in response to criterion 1, and due to the ambiguity of the findings of the calculation of the housing need and lack of clear and accurate assessment of the need to dispute the findings of the LHNA, it is considered that the need for the type of housing proposed has not been demonstrated. Although the need for housing for an older population was never disputed, it has not been demonstrated that there is a need for the quantum of development proposed, primarily that of the discounted sales element.

- 5.1.40 Initial concerns have been raised regarding the quantum of development, which is considered being unsuitable considering the locality, and the layout and density of the proposal, due to the impact that it is expected to have on the character of the area. These matters are further assessed below in the relevant section of the report. However, when taken together with the issues identified above regarding lack of certainty of the need for this specific type of housing in the area, it clarifies the reasons why officers do not agree to the quantum of development proposed.
- 5.1.41 It should also be noted that during the process of the application, the Applicant has been advised by officers of the concern regarding the above matters and particularly the quantum of development proposed, taking into consideration the ambiguity of the evidence relating to housing need and expected impact on the character of the area. The applicant has advised that they are not able to reduce the amount of development; however, an 'open book' viability assessment was never submitted to the Council for review. It is therefore considered that in the absence of a viability assessment demonstrating that a smaller scheme would not be able to be viable, officers are not persuaded that the need for the quantum of development proposed has been justified.
- 5.1.42 With regard to site availability the Applicant argues that the proposed site is the only one in Tollesbury that has the principle of residential development established. As noted above, the site does not benefit from an extant planning permission and therefore, there is no fallback position to establish the principle of residential development in the site. Furthermore, the previously approved outline permission, which has now expired, was for conventional housing and not for such a specific in nature type of housing (sheltered accommodation for older people or people with disability, incorporating 86.2% of discounted sales element) and therefore, it should not be overlooked that accessibility credentials vary significantly. Moreover, it should be noted that the Council within the Specialist Needs Housing SPD has identified its expectation to deliver the majority of the older persons housing within Maldon, Heybridge and Burnham-on-Crouch, where there is greatest demand and the best accessibility to local amenities and public transport. Given that the site is located outside those areas, a sequential site assessment of all other available sites that are in a more optimal location in terms of accessibility or identified need should have been reviewed, in order to be discounted and conclude that the site is the only available site to provide the proposed development. Although the Applicant has taken into consideration site proposals for specialist housing recently delivered, approved or under determination, no site assessment has been carried out and therefore, alternative sites, with better credentials than the application site have not been considered.

4) Identification of a number of potential sites in the locality and selection of the most sustainable site, taking into consideration site availability, condition and capacity of existing infrastructure servicing the proposed scheme.

- 5.1.43 As explained in paragraph 5.1.40 above, no sequential site assessment has been carried out and therefore, alternative most sustainable sites (considering all three dimensions of sustainability), have not been considered by the Applicant.
- 5.1.44 For the reasons stated above, it is considered that insufficient information has been provided to demonstrate that the development complies with the requirements of Policy H5.
- 5.1.45 It should also be noted that a development for affordable housing should comply with the required tenure split in order to be able to meet the needs of the District.

According to the response being received by the Council's Housing Senior Specialist that would be a tenure mix of 75% affordable/social rented and 25% affordable home ownership. On that basis, 21.75 units should be affordable rented units and only 5 are currently proposed. Although it is acknowledged that the proposed affordable rent units would provide some social benefit to the scheme, it is clear that the development, as proposed, does not comply with the tenure split for affordable housing and therefore, this lack of provision of affordable rented housing results in a significant reduction of the social benefits arising from the scheme.

5.1.46 Policy H3 of the LDP further describes the required accommodation for specialist needs, which derives from evidence contained in the Older Persons Housing Strategy (2010) and SHMA (2012) considered in support of the Local Plan. This states that:

*“Proposals for specialist needs housing such as homes for older people, people with disabilities, or homes for other specific groups who may require properties that are specifically designed and / or allocated will be supported where:*

- 1) *There is a clearly identified need that cannot be addressed elsewhere in the District;*
- 2) *The development is located in an area that is sustainable to meet the social as well as housing needs of the intended residents;*
- 3) *It will not lead to a concentration of similar uses that would be detrimental to the character and function of an area and/or residential amenity;*
- 4) *It will not detrimentally impact on the capacity of public services, including health and social care;*
- 5) *It is in close proximity to everyday services, preferably connected by safe and suitable walking / cycling routes or public transport appropriate for the intended occupier;*
- 6) *It can be demonstrated that the development is designed and managed to provide the most appropriate types and levels of support to its target resident;*
- 7) *It can be demonstrated that revenue funding can be secured to maintain the long term viability of the scheme; and*
- 8) *The scheme is supported by the relevant statutory agencies.”*

5.1.47 The above criteria are assessed in turn, below:

- 1) *There is a clearly identified need that cannot be addressed elsewhere in the District;*

5.1.48 The Maldon Council's Specialist Needs Housing SPD identifies an acute need for specialist housing in the District and that the majority of older people would like to live in a bungalow (62.2%). It also states that *“the expectation is that the majority of this significant older persons housing shortfall will be delivered where the greatest demand is, in Maldon, Heybridge and Burnham-on-Crouch where residents benefit from good access to public transport, shops and other key services.”*

5.1.49 In light of the above, the Council's need for specialist housing for older people is recognised, as well as a small level of flexibility in terms of the location of this specialist housing. However, criterion 1 of policy H3 requires a clear identification of

the need that cannot be met elsewhere in the District. To identify the need, consideration should be had to the type of the Housing proposed, as well as the need of the locality for this type of specialist housing.

- 5.1.50 The site is located outside the settlement boundaries of Tollesbury. Whilst it is recognised that Tollesbury is one of the larger villages in Maldon, providing a small amount of services and facilities and a low level of accessibility to public transportation, it is clear that there are other areas within the District in much more accessible locations where the specialist housing for older people can be provided and no site assessment has been submitted demonstrating that these sites are not available to deliver a similar type of development.
- 5.1.51 It should also be noted that although there is no dispute regarding the need for older people housing in the District, this argument on its own cannot justify the approval of a scheme that is otherwise unacceptable. Although the Council's Older Persons Housing Strategy (2013) has identified a need for 200 sheltered homes with low level of support, it would be arbitrary to conclude that provision of such type of housing in any area of the District would be acceptable without robust justification that this will meet the needs of the locality. Although the need for the different types of specialist housing has not yet been met in the District and consideration is given to the ageing population and the projection of the older people, this argument cannot justify the approval of schemes, when the need in the locality has not been demonstrated. Furthermore, it should be noted that the Council carried out an LHNA in 2021 and the findings of the assessment regarding needs of older people housing show a high level of surplus on Sheltered housing. Therefore, some weight should be given to the findings of this recent assessment. Most importantly, it is for Applicant to demonstrate the need in the locality and for the reasons explained in paragraphs 5.1.30 – 5.1.35, it is not considered that the assumptions made by the Applicant to demonstrate the need in the locality can conclude to accurate results, in terms of housing need.
- 5.1.52 The quantum of development is also a matter of concern directly related to the identified housing need. This is further discussed within the assessment of the proposed development against criterion 3 of Policy H5 above.
- 5.1.53 It is proposed that the development would be subject to occupation restrictions, so that individuals or couples will have to comply with a cascade provision to target people leave in Tollesbury first, then the Northern Rural part of the District and then the wider area of Maldon. Although this mechanism would be able to target local people first, if there is no need for this particular type of housing then the units would have to be offered to people outside the district and therefore, consequently the Council would have approved a development for 'affordable housing' that would not meet the overall affordable housing needs of the District. Furthermore, whilst not being identical in nature there are already age restricted affordable accommodation within the District that is outside of the main urban areas. If the level of development proposed does not meet an existing need within the District it may just result in people relocating to a newer and more attractive development. This would result in the existing properties being left vacant and it would be possible for people outside of the District to apply for the existing properties; there is no way of ensuring that this does not occur through the planning process.
- 5.1.54 Therefore, for all the above stated reasons, it is considered that it has not been demonstrated that there is an identified housing need in this area, that cannot be met elsewhere in the District.



- 2) *The development is located in an area that is sustainable to meet the social as well as housing needs of the intended residents;*
- 5) *It is in close proximity to everyday services, preferably connected by safe and suitable walking / cycling routes or public transport appropriate for the intended occupier;*

5.1.55 The second and fifth requirements of policy H3, which run parallel with policies S1, T1 and D2 of the LDP, seek to make sure that the development is located in a sustainable location to meet the social and housing needs of the future residents.

5.1.56 The accessibility of the site to public transportation and facilities is pertinent to be assessed, as it is one of the requirements of policy H3 and also one of the requirements of local and national guidance for older people housing.

5.1.57 Matters relevant to accessibility of the site are assessed in great detail in the Environmental Dimension above (paragraphs 5.1.13 – 5.1.16). Although it is not considered that the location of the proposed development would be ideal for people of an older age or disabilities and there are other areas that specialist housing would be more appropriate to be delivered, on balance, it is considered that due to the proximity of the development to some services and facilities that can assist in meeting the day to day needs of the future occupiers, no objection is raised against this particular criterion of the policy.

- 3) *It will not lead to a concentration of similar uses that would be detrimental to the character and function of an area and/or residential amenity;*

5.1.58 Although there is housing in Tollesbury for retired people, there are no known sites that provide a similar type of housing to that proposed under the terms of this application, including a high level of discounted sales units. Furthermore, officers are not clear as to whether the existing sheltered type of accommodation meets the building regulations requirements for accessible and adaptable homes (M4(2) category), which is currently a requirement for all affordable units. Therefore, it is not considered that the development would result in a concentration of similar uses, albeit there are concerns in relation to quantum of development proposed and therefore, the level of concentration of this use in one location.

- 4) *It will not detrimentally impact on the capacity of public services, including health and social care;*

5.1.59 The proposed development, by reason of its nature, would have an impact on the capacity of the public services. This would include the local GP surgery. Although the development, as sheltered accommodation, would have to provide 24 hour emergency support call, however, this service would only be able to cover emergency calls rather than the day to day health needs of the future occupiers. The development also proposes the erection of a multi-purpose communal building. It is suggested that the building, within other uses could be used for NHS outreach services. It is considered this would be unlikely to be secured through the imposition of a condition or a clause within a S106 agreement and therefore, it will not be able to be afforded significant weight regarding alleviating the impact on the health care facilities. The NHS Mid and South Essex has been consulted and advised that “*the proposed development is likely to have an impact on the services of the Tollesbury Surgery which operates within the vicinity of the application site. The GP practice does not have capacity for the additional growth resulting from this development and cumulative development in the area.*”. To mitigate this impact the NHS has advised that a commuted sum would be expected to be secured through the S106 agreement. It is considered that should permission be granted, this matter would be able to be addressed and secured through a legal agreement pursuant to S106.

- 6) *It can be demonstrated that the development is designed and managed to provide the most appropriate types and levels of support to its target resident;*

5.1.60 Within the submitted Planning Statement it is highlighted that the development would be designed to a minimum of M4(2) accessibility standards. In particular, it is advised that the proposed affordable rent units will all be designed to M4(3) wheelchair user dwellings standards. Furthermore, all properties will exceed the minimum National Housing Standards and the development would be designed in accordance with the dementia-friendly principles. Overall, it is considered that the development as proposed to be designed will be able to support the needs of the targeted residents.

- 7) *It can be demonstrated that revenue funding can be secured to maintain the long term viability of the scheme; and*

- 8) *The scheme is supported by the relevant statutory agencies.*

5.1.61 The development would provide sheltered rather than extra care accommodation and therefore the Essex County Council Housing Growth Lead has not provided comments in relation to the proposed development. although no adverse comments have been raised by the ECC Social Services Specialist, by reason of the nature of the development, revenue funding would not be able to be secured for the proposed development.

5.1.62 It is also noted that the development is not supported by a viability assessment to ensure the long-term viability of the development without finding. An element of the proposed development (5 units) is to be affordable rented and no justification of interest of a register provider has been expressed. The Applicant has suggested that they are willing to become a register provider; however, no evidence to that effect was submitted at the time of writing the report. It is therefore considered the Applicant has not demonstrated the long-term viability of the scheme.

5.1.63 As a result of the above assessment, it is considered that although some of the criteria of policy H3 are to be met or the impact of the development would be natural, there are still a number of criteria that cannot be met and therefore, when assessing the proposal against policy H3 as a whole, it is considered that the development would be unable to comply with the Policy requirements.

#### Economic Dimension

5.1.64 With reference to the economic dimension of sustainability, it is reasonable to assume that there may be some support for local trade from the development, and the additional units will potentially support local businesses within Tollesbury, such as shops and services. This would however be limited given the scale of the proposal. Equally, there is no guarantee that the construction would be undertaken by local businesses, with locally sourced materials. Any economic benefits would therefore be considered nominal.

#### Conclusion

5.1.65 The proposed development is to provide a sheltered accommodation for older persons. The Council cannot demonstrate a 5 Year Housing Land Supply and therefore, the tilted balance is engaged. As such, the development has been assessed against the three dimensions of sustainable development, in order to identify whether the benefits of the development would be able to outweigh any adverse impacts.

- 5.1.66 It is stated that the proposed development would provide an 100% affordable sheltered housing scheme for older persons. For a development to be considered affordable both building criteria and the people's eligibility criteria should be met. Following the above assessment, it is concluded that the Applicant has not provided sufficient information to demonstrate that the development would be able to meet the criteria of affordable housing in terms of the affordable sales element, which constitutes 86.2% of the overall scheme. Furthermore, it has not been demonstrated that the development would be able to provide affordable housing to meet the needs of those that cannot be met by the market but instead it is considered that the proposal would constitute accommodation based on an aspiration lifestyle choice rather than actual need.
- 5.1.67 Even if the necessary submissions have been made to demonstrate that the proposal constitutes affordable housing in accordance with the NPPF requirements and not just discounted market units, officers consider that the submitted evidence is dubious and not able to demonstrate that there is a need for this quantum of this particular type of affordable (25 affordable sales). Although no objection is raised to the provision of affordable housing per se and consideration is given to the fact that the numbers in the Policy are minimum and not a ceiling, it is considered that need for the quantum of development proposed of this very particular type of housing has not been demonstrated.
- 5.1.68 When the tilted balance is engaged, the benefits arising from the scheme shall be weighed against the harm. Although the impact of the development on the character and appearance of the area are further assessed below, it is noted that initial concerns are raised in relation to the quantum of development within this fringe location, as well as the proposed layout and resultant density of the scheme. This judgement is also based on the Inspector's decision to dismiss an appeal for 19 units in the same location (19/00197/RES).
- 5.1.69 Furthermore, for the scheme to be considered as a rural exception scheme and be policy compliant, it would be required to provide affordable housing in accordance with the required tenure split as identified by the Housing Senior Specialist (75 affordable rented /30 affordable sales) and the development proposed does not comply with this requirement.
- 5.1.70 Although, on balance, it has been accepted that site benefits from some sustainability credentials, in terms of accessibility to local amenities and public transportation, it is considered that overall, for the reasons assessed in detail above, including the lack of evidence to demonstrate an identified need of this specific type of development in this location, it is considered that the benefits arising from the development would not be able to overcome the harm caused by the proposed scheme, if approved.

## **5.2 Housing Need and Supply**

- 5.2.1 Following a number of recent amendments to the national policy and guidance, the Council has recently reviewed its housing needs evidence to inform the LDP. Although there is no set requirement for market or affordable units for specialist housing for older persons, it is reasonable to accept that people at an older age would expect to downsize/rightsize to smaller (one and two bedroom) units. The proposed development would provide the following housing mix:
- 15 one-bedroom units, of which 5 are proposed to be affordable rent units
  - 10 two-bedroom units
  - 4 three-bedroom units

- 5.2.2 A relatively small percentage (13.7%) of three-bedroom properties are proposed. Whilst it is accepted that the majority of the older population would prefer to downsize, and this is the aim of the development by providing the largest amount (86.3%) of small (one and two bedroom) properties, there is still the expectation that a small amount of the future occupiers would prefer larger properties, which would meet the special specification of accessible and adaptable homes. Furthermore, at times, a three bedroom property could still be a sustainable downsize or people living in those properties would have a need for a carer. It is therefore considered that, whilst the mix does not weigh in favour of the proposal, on balance, no objection is raised to the proposed amount of larger three-bedroom dwellings to provide a range to the housing mix.

### 5.3 Design and Impact on the Character of the Area

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:
- “The creation of high quality, beautiful and sustainable 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”.*
- 5.3.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-
- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
  - b) Height, size, scale, form, massing and proportion;
  - c) Landscape setting, townscape setting and skylines;
  - d) Layout, orientation, and density;
- 5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (MDDG) (2017).
- 5.3.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.
- 5.3.6 The application site lies outside the defined settlement boundaries. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden

Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance. It should also be noted that planning decisions must also have regard to any material considerations relevant to the application under consideration.

- 5.3.7 The site is located outside the defined settlement boundaries of the District, adjacent to the eastern boundary of Tollesbury. The site occupies an approximate area of 1.72 hectares and it comprises primarily a pasture field with a native woodland along the western boundary. The site forms the eastern fringe of the settlement and the Inspector assessed an appeal for the erection of 18 dwellings on the same site characterised it as noticeably rural having a clear relationship with the open agricultural fields to the north and south (Appeal Reference: APP/X1545/W/19/3239910, Application reference 19/00197/RES).
- 5.3.8 The proposed development would involve the erection of 29 residential units and a multi-purpose community building. The build form would be erected centrally within the application site, but close to the north and south boundaries. A large part of the woodland to the north western part of the site would be retained, whilst an attenuation basin with a wetland is proposed along the western boundary of the site. Part of the woodland on the southwestern part of the application site abutting the settlement boundary of Tollesbury is proposed to be removed to accommodate the proposed development. The majority of the existing boundary hedges demarcating the south, north and western boundaries will be retained, with the exception of an area on the southern boundary to allow for the formation of the access point.
- 5.3.9 The application is accompanied by a Landscape and Visual Impact Assessment (LVIA). Although the submitted LVIA was prepared on the basis of the originally submitted development, given that the amount of the development and the overall position of buildings have not been altered, it is considered that the comments raised would still be relevant. With regard to the impacts on the landscape, the LVIA states that *"The greatest adverse landscape impacts identified were upon the enclosed character of the Site and the overall character of the setting of the Site, both of which are anticipated to experience adverse impacts of Moderate/Minor significance."* These are anticipated to be reduced to minor impacts over the lifetime of development. Some beneficial impacts have been identified in terms of landscaping, including the retention and management of a large part of the existing woodland and the creation of a stronger boundary hedgerow. In terms of visual impacts, the LVIA suggests that *"The greatest visual impact identified was upon users of Public Footpath 263-18, which lies adjacent to the Site's eastern boundary and connects to a series of other Public Rights of Way within the Blackwater Estuary, where users are anticipated to experience an adverse impact of Moderate significance as a result of the introduction of structures to views south towards the Site... The pedestrians of Woodrolfe Road and residents of No. 41 Woodrolfe Road were anticipated to experience an adverse impact of Moderate/Minor significance, however over time as the proposed planting matures, this impact is anticipated to be reduced to a Minor significance"*.
- 5.3.10 The findings of the LVIA identifying a moderate/minor landscape impact and moderate visual impact are acknowledged. However, 'landscape' is usually only one criterion in a wide spectrum of issues under consideration as part of an 'on-balance' decision and therefore, consideration should be had to the impacts of the development on the character of the area, its relationship with its surroundings, including the build-up settlement and the rural area, the density, the grain and the suitability of the quantum of development proposed in this fringe location.

- 5.3.11 The proposed development would accommodate a total number of 30 buildings (29 dwellings), including the community building. Although the submitted Design and Access Statement does not include density details, when calculating the density of the development in accordance with the measuring tools provided within the MDDG SPD (page 49), it appears that the development would result in a gross residential density of 25 dwellings per hectare and a net density of 32 dwellings per hectare (in both calculations the woodland has been excluded; however, all other amenity areas, including the attenuation basin have been taken into account to measure the gross residential density).
- 5.3.12 The MDDG SPD states that “*While it is important to ensure best use of land in an efficient and cost-effective manner, density should be appropriate to the location and respond to and/or enhance the character of the existing settlement and context*”. It is also stated that “*densities decrease the further from the centre of a settlement. Lower densities may be more appropriate in Agricultural or Arcadian settlements and edge of settlement sites.*” The proposal, if development would result in a density higher than that of the areas immediately adjacent to the west of the site, within the settlement boundary which appear to have a net residential density of around 18 dwellings per hectare (there are 19 dwellings within an area of around 10.7 hectares). It is therefore considered that the net density of the site (32 dwelling/hectare) compared to the density within the boundaries of the settlement boundary adjacent to the site (17 dwellings/hectare) would be rather higher, resulting in a very tight grain. Given that the site is located outside the settlement boundary and as the Inspector noted, the site has a clear relationship with the open agricultural fields, it is expected that any future development should preserve the character of this fringe location and have a residential density that reflects the existing context that is contained within. As advised within the MDDG SPD a much lesser density would be expected to the edge of settlement areas, even more to those outside the settlement boundary. Therefore, it is considered that the development would not comply with the guidance contained within the MDDG SPD and it would result in dense development that does not respect the character of the area. This is also indicative of the overdevelopment of the site.
- 5.3.13 Concerns have also been raised to the Applicant in relation to the layout and grain of the development, since the submission of the proposed development. There are several reasons the development is not considered acceptable, in terms of its grain and layout. Primarily, by reason of the amount of development proposed, the layout of the development appears very tight of grain and close knit. Furthermore, the front building line of the dwellings along Woodrolfe Road is well established, with dwellings closer to the edge of the settlement being well set back from the highway. The proposal, in order to achieve the amount of development proposed, has resulted in a layout and build-form being located in very close proximity to the highway, as close as 2.9 metres from the highway. This is 10 metres closer to the public realm than the nearest dwelling to the west. Furthermore, the dwellings located adjacent to the highway are fronting the internal estate road rather than the public highway, appearing disorientated and out of keeping with the prevailing character of the dwellings along Woodrolfe Road, which front the highway.
- 5.3.14 Although consideration is given to the nature of the proposed development and the fact that this would not follow the typical domestic arrangements of conventional housing, including rear gardens and back-to-back/back-to-side minimum distances between the dwellings, it appears that the layout of the development would be contrived and tight of grain. Concerns in that respect were raised with the Applicant and an attempt to address some of them has been made. Following amendments, the north-western and north-eastern dwellings of the development have been

amended to achieve a better relationship with the adjoining properties. However, it is considered that the development would still appear squeezed and as being quantum-led than design-led.

- 5.3.15 It is important to note that the Inspector assessing the development of 18 dwellings in the same application site (Appeal Reference: APP/X1545/W/19/3239910, Application reference 19/00197/RES) found this proposal unacceptable in terms of its impact on the character of the area, considering it tight of grain and close knit for what are distinctly rural surroundings. Like this application the layout of the development as not across the entire site. The proposed development would result in an additional 11 dwellings and a community building in the same site and therefore, this is a clear indication that a much denser development would result in more harmful impacts on the character and appearance of the site. It should also be noted the outline permission for the erection of up to 24 dwellings (14/01202/OUT) is not an extant permission and therefore, the site does not benefit from a fallback position for the erection of up to 24 dwellings.
- 5.3.16 The proposal would also result in loss of part of the woodland, on the southwestern corner of the application site. It is considered that this woodland loss, which currently contributes to the character of the area and demarcates the edge of the settlement, taken together with the amount of development proposed within this part of the development, the layout and proximity of the dwellings on the highway, would exacerbate the impact of the development on the character and appearance of the area. The Applicant in his submission makes reference to the benefits arising from the maintenance of the woodland area to be retained and the woodland walks to be created, but the partial loss of the woodland is not highlighted or clearly addressed. It is also noted that this loss was not part of the dismissed proposal for the 19 dwellings, which the Inspector found unacceptable in terms of its impact on the character of the area. As a result, it is considered that the partial loss of the woodland would impose a further adverse visual impact to that identified by the Inspector for a smaller scheme on the same site.
- 5.3.17 Overall, for the reasons stated above, it is considered that the density, layout, grain of the proposed development and partial loss of woodland would be unacceptable and indicative of the overdevelopment of the site. Furthermore, although from a development of that nature it would not be expected to follow the build-form and grain of the immediate residential area, it is considered that as a minimum the scheme should have been designed in a way that takes into consideration and follows the established building lines along the main road. Moreover, it is considered that the Applicant has failed to consider the existing low-density surroundings and the distinct rural and sparse form of development in the vicinity. The development would therefore appear very urban in comparison to its surrounding, tight in grain and out of keeping with the character of the wider area.
- 5.3.18 In terms of the mass, scale and form of the dwellings it is noted that a variety of designs and styles are proposed, including bungalows, chalet style and two-storey properties. There are also semi-detached and terraced dwellings/flats. Although no objection is raised to the provision of a mixture of dwellings, as there is no prevailing or uniform character in the area in terms of building height, it is noted that majority of the properties in the immediate vicinity are detached properties set within relatively large plots. Although the development, by reason of its nature, is not expected to religiously follow the mass, form, scale and plot arrangements of the residential development in the vicinity, it is considered that the openness of the area, and the gaps between the properties could have been replicated in the development, by providing detached units rather than terraced units. Therefore, although no objection is raised to scale or height of the units when considered individually, when the

development is taken as a whole, considering the mass of the overall terraces and semi-detached properties proposed, in conjunction with their close proximity and lack of gaps, it is considered that the overall mass and scale of the development would be unacceptable and would detract from the scale and mass of the units in the vicinity and the overall openness of the wider area.

- 5.3.19 The Applicant has advised that the reason for the proposed layout, proximity of dwellings, provision terraces and overall close knit build-form of the development is assisting in the design being in compliance with the dementia-friendly design principles. However, it has not been demonstrated that the development of a lesser amount and different layout would be unable to meet those design principles. Therefore, this argument is not considered reasonable to be given material weight.
- 5.3.20 With regard to the detailed design of the proposed dwellings and flats, it is noted that a variety of styles and design are proposed. There is no objection to a mixed character and designs when a level of uniformity and consistency in the design principles is maintained. Although there are some design characteristics that are uniform through the site, such as the prevailing gabled roofs and provision of verandas, it is noted that there are elements that make the development incongruous and convoluted. Whilst the majority of the buildings would have a gabled roof element, they also incorporate other cut-slide, mono-pitched, flat roofed forms, dormers and a variety of canopies that make the overall appearance of the roof forms rather convoluted and the wider development lacking rational and consistency.
- 5.3.21 Concerns have been raised with the Applicant since the submission of the application regarding the terraced properties and in particular the relationship of the two storey with the single storey elements. The proposal would incorporate two rows of terraces (units 8-12 and 15-20) that have single elements attached to two storey elements. The development as design results in a poor relationship between the units, with misaligned eaves and ridge heights and also an overall inconsistent appearance, with design details that do not follow throughout the terraces. It is therefore, considered that these terraced units result in a design and appearance materially lacking architectural merit. This is also indicative of the development being led by the amount of development proposed rather than being design-led.
- 5.3.22 Other design elements that are not considered contributing to the overall character of the proposed scheme, include the provision of undercroft parking. It is considered that undercroft parking, although in some cases is the sole available option to parking provision, should generally be avoided, as it results in large dark voids, that make the frontages of dwellings unattractive. It appears that this parking arrangement has been repeatedly used in the current proposal further impacting on its architectural merit.
- 5.3.23 Although no objection is raised to the provision of architectural features referencing the sail lofts along the marina or the proposed finishing materials and a good level of fenestration has been incorporated to all units, it is considered that these architectural features are not sufficient to overcome the visual harm identified above.
- 5.3.24 No objection is raised to the design or scale of the proposed multipurpose communal building. The building would be of a modern design with a large amount of glazing, which would reflect its multi-purpose functional use. A raised platform is proposed to the southeast of the building next to the proposed wetland, which would be used as an outdoor seating area. It is considered that the platform would be acceptable in design terms.



- 5.3.25 The proposed development would also introduce new landscape features, such as a wetland at the south-eastern part of the development, the purpose of which would be dual; to improve the visual amenity and sense of place of the area and to provide a drainage scheme to serve the site. The wetland would be adjacent to the multi-purpose communal building. It is considered that the wetland together with proposed landscaping around the attenuation basin and the proposed communal building, would create a meeting / focal point for the future occupiers as well as people visiting the area. Although it is considered that this element of the development would be beneficial to the scheme in visual and social terms, it is considered that the benefits arising from this element would not be sufficient to overcome the harm identified above from all other elements of the proposed development.
- 5.3.26 It is noted that the submitted proposed site plan shows a pumping station to be located on the southern part of the woodland and an electric substation to the north-eastern part of the application site. No details for these utility stations have been submitted. Although some initial concerns in relation to proximity of the proposed substation to units 28 and 29, it is considered that any such concerns would be able to be addressed by the imposition of a condition, should permission be granted.
- 5.3.27 On the basis of the above assessment, it is considered that the proposal would have a discordant visual impact which would detrimentally impact upon the character and appearance of the area. As such the development would be unacceptable in design terms and in conflict with Policies D1 and H4 of the LDP, along with section 12 of the NPPF. It is also considered that it has not been demonstrated that the adverse impact identified to the environment would not be able to be outweighed by the benefits of the proposed development.
- 5.3.28 The proposed development would have a significant impact on the character and appearance of the area and would not relate to the adjoining urban area or countryside appropriately. Whilst the benefits of the provision of additional residential accommodation is noted it is considered that this harm significantly outweighs the benefits. Furthermore, for reasons discussed above, the benefits of the Applicant's position that the scheme is 100% Affordable Housing is of very limited weight in the balancing exercise.

#### **5.4 Impact on Residential Amenity**

- 5.4.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG.
- 5.4.2 The application site is bounded by residential dwellings to the west and south. The proposed development would result in increased levels of activity, by reason of the increased number of dwellings on site. However, on balance, it is not considered that the development would have a harmful impact on the existing residential amenity of neighbour sites in terms of noise and disturbance, given that compatible residential uses exist in the area.
- 5.4.3 The nearest residential property to the application site would be 39C Woodrolfe Road. The shared boundary with this property is located 14.5 metres away from the nearest proposed residential units (5-7 and 8-12). An additional 5.5 metres distance is maintained to the dwelling within plot 39C. Although units 8-11 are flats contained within a two storey building, incorporating windows at first floor, due to the separation distance between the proposed residential units and the neighbouring dwelling, no objection is raised in terms of the impact of the development on the amenity of the

neighbouring occupiers by way of loss of light or privacy or overbearing impact. Units 5-7 are chalet style dwellings, but with no roof accommodation and thus, their impact on the neighbours' residential amenity would be even lesser than that caused by units 8-11.

- 5.4.4 It is noted that a boundary treatment issue has been raised by the owner of No. 39C due to subsidence. The Applicant has submitted indicative drawings showing structural improvement to the shared boundary. It is considered that these are civil matters and not material planning considerations. Therefore, any agreement between the applicant and the owner of no. 39C would have to be dealt with outside the determination of this planning application.
- 5.4.5 Although the units 8-12 would be located 11 metres away from the shared boundary with 16a Thurstable Road, it is noted that this property benefits from a deep rear garden and therefore, an additional 45.7 metres distance is maintained to this dwelling. This is a sufficient separation distance to prevent unacceptable overshadowing or overlooking.
- 5.4.6 All other nearby properties to the application site, to the south and west are sited further away and therefore, the development would not have a further impact on residential amenity.
- 5.4.7 For the reasons stated above, it is not considered that the proposal will result in any unacceptable harm by way of overlooking, loss of light or loss of privacy nor is it considered that the development would be overbearing or result in unacceptable noise impacts. The development would therefore comply with Policy D1 of the LDP.

## **5.5 Access, Parking and Highway Safety**

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

### Access

- 5.5.2 Access to the site would be gained off Woodrolfe Road. The Highway Authority was consulted and advised that from a highway and transport perspective the impact of the development is acceptable, subject to a number of conditions including those requiring the access to be formed in accordance with the details of the submitted plans. A 2 metres wide footpath along the northern part of Woodrolfe Road to be connected with the existing footway to the east of the proposed access junction is proposed to be formed. This area appears to be within the boundary of the application site and therefore, compliance with the above requirements would have been secured by the imposition of appropriately worded conditions, should permission be granted.

### Trip generation

- 5.5.3 The proposed development would result in a total of 29 residential units and a community hub building. Although the development is expected to result in trip generation, considering the amount and nature of development, it is not considered

that the proposal would result in a material increase that it would adversely impact on the existing highway network.

- 5.5.4 The application is supported by a Transport Statement advising the vehicle trip generation of the type of use proposed is expected to be negligible in the context of the existing operation of Woodrolfe Road. No objection has been raised by the Highway Authority regarding the impact of the development on the capacity of the highway network and therefore, it is considered that the development would be acceptable in that respect.

#### Parking

- 5.5.5 For retirement living comprising self-contained dwellings, such as the proposed scheme, the Vehicle Standards SPD states that the number of parking spaces proposed would be on individual assessment and justification.
- 5.5.6 Although schemes like the proposed development area assessed individually, consideration should be had to the residential and community building parking space standards. The following standards would generally apply to a conventional housing development:
- Residential element: 1 parking space per one-bedroom dwelling and 2 parking spaces for two and three-bedroom dwellings.
  - Community centre: maximum of 1 space per 22sqm of gross floor space.
- 5.5.7 The proposed development would provide a total of 44 parking spaces, 42 for the proposed residential units and 2 allocated for the community building. To be compliant with the residential parking requirement, the development would require 43 parking spaces for the residential element and three for the proposed community building. Given that all properties will be served by a minimum of 1 parking space and that the purpose of the community building is to be used primarily by the occupiers of the proposed development, and therefore, it is not expected to attract a high volume of visitors, it is considered that a shortfall of 2 parking spaces to the overall scheme would be, on balance, acceptable and it would not result in vehicles being parked on the road, obstructing the free flow of traffic.
- 5.5.8 The development should also be compliant with the provision of charging points for electric vehicles. Given that no details have been submitted regarding this, should permission be granted, provision of charging points for electric vehicles would have been secured by condition.
- 5.5.9 The development would also be required to provide cycle parking in accordance with the following standards:
- Residential element: none if garages are provided, 1 per one bedroom dwelling, 2 per 2+ bedroom dwellings and 1 per eight units for visitor cycle parking.
  - Community centre: 1 per four staff and 1 per 4 visitors.
- 5.5.10 It is noted that no details of cycle parking has been submitted with the proposal. Should permission be granted, the submission of cycle parking details would have been secured by the imposition of condition.
- 5.5.11 It is noted that for independent living, retirement complexes and residential care homes one mobility scooter space per five self-contained residential units or 1 / 5

residents' communal establishment should be provided. As no details have been submitted in that respect, similar to the details for cycle parking, it is noted that should permission be granted, the submission of scooter space details would have been secured by the imposition of condition.

## **5.6 Private Amenity Space and Living Conditions of the Future Occupiers**

- 5.6.1 Policy D1 of the LDP indicates the need for amenity space in new development and that the spaces provided must be useable. In addition, the adopted MDDG SPD which was adopted to support its policies in assessing applications for residential schemes advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25 m<sup>2</sup> for flats.
- 5.6.2 The proposed development, by reason of its very nature, would not provide amenity space in its conventional domestic form. An open communal area measuring 750sqm would be provided centrally to units 15 to 29. An additional 200sqm of communal amenity space is proposed between units 3 and 4 and 5 to 7. Future occupiers would also have access to the woodland on the north-western part of the application site, which measures around 0.54 hectares, as well as an area to the east, which would have a dual use as attenuation basin and amenity space. Furthermore, all units would have access to a small veranda or balcony. Therefore, although if the development was to provide conventional housing the amenity space requirements would be 1.750sqm overall, in order for the development to be policy compliant, taking into consideration the nature of the proposed development, it is considered that the development would provide sufficient amenity space to meet the outdoor needs of the future occupiers.
- 5.6.3 It is noted that all dwellings will meet M4(2)- accessible and adaptable dwellings accessibility standards and some of them will also meet M4(3) – wheelchair user dwellings accessibility standards.
- 5.6.4 The dwellings will be served by windows which would provide adequate light, outlook and ventilation to all habitable rooms. A good level of accommodation would be provided for the future occupiers and on that basis, it is considered that the development would provide a good level of living environment to the future occupiers.

## **5.7 Flood Risk and Sustainable Urban Drainage Strategy.**

- 5.7.1 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.
- 5.7.2 Policy D5 also 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"*.
- 5.7.3 The proposed development is located in Flood Zone 1; thus, not in an area at risk of tidal or fluvial flooding. However, the application is accompanied by a Flood Risk Assessment which includes details of how surface water would be managed.
- 5.7.4 The submitted Flood Risk Assessment raises the following conclusive points:
- To assess the surface water flooding which affects the site a site specific model has been used. The model has been used to set flood management proposals (which comprise a floodwater storage basin and finished floor/threshold levels relative to ground level).

- The proposed development is not considered to be subject to significant or unmanageable flooding from the other sources.
- Attenuated runoff from the site will be discharged at the annual greenfield rate (Q1) of 3.0 l/s/ha to the southern boundary ditch.
- The proposed surface water management scheme provides sufficient on-site storage to manage the 1 in 100 annual probability storm plus 40 % climate change allowance.
- Both the surface water and flood management scheme will be maintained by the community owner/operator.

5.7.5 The Lead Local Flood Authority (LLFA) has been consulted having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application and raised no objection to the proposal subject to conditions. Furthermore, the Council has consulted the Environment Agency and given that the site appears to be located within flood zone 1 and there are no known contamination issues or any other constraints, raised no site specific comments. Should permission be granted, the conditions requested by the LLFA would have been imposed.

5.7.6 Concerns in relation to flooding have been raised by the Council's Environmental Health Specialist. In particular it is stated that *"the site currently floods and in our experience is part of a low-lying area of ground subject to flooding where water is channelled from the NW and SW of the site. Water enters the AWS surface water system which discharges to a watercourse along Woodrolfe Road. This subsequently backs up and causes flooding at the Woodrolfe Industrial Estate. We also have evidence of localised flooding that affects residents to the NW because of poor surface water drainage in the location."*

5.7.7 Additional information has been submitted by the Applicant (correspondence from Cannon Consulting Ltd dated 4 November 2021) following the submission of consultation response from the Environmental Health Specialist. The developer has proposed an off-site drainage strategy to improve the situation downstream at the industrial units. On that basis, and subject to a planning obligation pursuant to a S106 agreement the Environmental Health Specialist is satisfied that the impact would be able to be mitigated. In the absence of a signed legal agreement securing this off-site drainage strategy, the impact of the development would be unacceptable, in terms of flooding.

## **5.8 Impact on Ecology, Biodiversity, Trees and Landscaping.**

5.8.1 The application site does not fall within or in close proximity to statutory nature designations. However, a woodland, comprising partially a priority habitat deciduous woodland and a broadleaved area exists on the western part of the application site.

5.8.2 Policy N2 of the LDP states that *"All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance."* Conservation and enhancement of the natural environment is also a requirement of the NPPF.

5.8.3 The application is supported by a Preliminary Ecological Appraisal (PEA) Report Ref: 20-4058 (Lockhart Garratt Ltd, June 2021), Reptile Mitigation Strategy 21-1524 (Lockhart Garratt Ltd, December 2021), Reptile Mitigation Plan 4661/01/21-1565 (Lockhart Garratt Ltd, December 2021), Biodiversity Impact Assessment (Lockhart Garratt Ltd, June 2021), Water Vole Survey Report Ref: 21-0481 (Lockhart Garratt

Ltd, July 2021), Reptile Survey Report Ref: 21-0478 (Lockhart Garratt Ltd, July 2021), Detailed Landscape Design Soft Planting Plan ref: 21-0061, and the Tree Layout Plan ref: 21-0237.

- 5.8.4 The submitted information demonstrated that the site is considered to offer suitable habitat for protected species, including water voles and reptiles. Populations of Common Lizards and slow worms were recorded on site. Signs of Water Vole were detected during the Phase 1 habitat survey carried out in October 2020 and the first Water Vole survey carried out in April 2021. The Ecology Consultant has been consulted and confirmed that subject to the implementation of the development in accordance with the Reptile Mitigation Strategy (Lockhart Garratt Ltd, December 2021) recommended that a Final Reptile Mitigation Strategy for the necessary protection of the reptiles to be secured. With regard to water voles the Water Vole Survey Report advises the proposals will lead to disturbance of a small section of ditch D1 to the south of the site where the new access road to the proposed development will be constructed. To ensure that water voles are protected the Ecology Consultant has advised that a Method Statement to protect Water Vole during the construction phase should be secured as a condition of any consent as part of a Construction Environmental Management Plan (CEMP) Biodiversity. Should permission be granted, these matters would have been secured by condition.
- 5.8.5 The Preliminary Ecological Appraisal advises the proposals will lead to the loss of some woodland to the south-west of the site. Compensatory woodland planting will be provided within the site, and enhancement of the retained woodland to the west of the site to include tree planting to create a more species diverse canopy, in addition to clearing pathways to allow light into the understory creating a more diverse ground flora to ensure there is no net loss of biodiversity. The Ecology Consultant has advised that *“considerations for other protected and Priority species that may currently be present in the woodland should also be included (such as Bats roosting in trees). All habitat management and aftercare should be secured via a Landscape and Ecological Management Plan (LEMP).”* Furthermore, it is recommended that *“due to the presence of Lowland Mixed Deciduous Woodland on site a Wildlife Sensitive Lighting Strategy should be delivered for this scheme to avoid impacts to foraging and commuting bats”*.
- 5.8.6 The application is supported by a Biodiversity Impact Assessment (dated 28 June 2021) which includes a number of biodiversity enhancements to secure net gain of biodiversity. This includes enhancement of the woodland on site with further specimen tree planting, close board fencing to the western boundary replaced with native mixed hedgerow planting, wildflower meadow planting located to the northern and eastern boundaries of the site, a wildlife pond incorporated with marginal planting of native wildflowers and aquatic species, enhancement of aquatic habitats and marginal and aquatic planting of native species within existing ditches, provision of birds and bat boxes, and the provision of suitable gaps in fence lines to allow the movement of species such as hedgehog. It is also identified that offsetting calculations identify a 9.25% gain in habitat biodiversity and 42.05% gain in hedgerow biodiversity. It is noted that should permission be granted, the Biodiversity Enhancement Strategy would have been secured by the imposition of a Condition.
- 5.8.7 As noted above the development would result in partial loss of the woodland (Broadleaved woodland). The Tree Consultant has advised that no objection is raised to the proposed works (formation of paths) within the wooded area, given that this is mainly scrubby woodland and to facilitate this no significant tree will be impacted. No further objection has been raised in relation to the loss of trees.

5.8.8 In relation to the proposed landscaping details, the following concerns were originally raised:

- The proposed planting size of the trees is considered small.
- Similar concerns were raised in relation to the proposed shrubs, requiring the submission of provision of larger plans to offer instant amenity, along with a management plan for at least 5 years.
- A more diverse species of new tree planting in the wooded area was considered necessary, along with a management plan for at least 5 years, to show how the development will improve this part of the site for the benefit of amenity as it matures, wildlife habitat and ecological net gain.

5.8.9 Following receipt of the above concerns raised by the Tree Consultant, the Applicant has submitted a response confirming that the size of the proposed trees will be increased, as well as the shrubs. With regard to the provision of diverse species within the woodland the Applicant has advised that the reason for this single tree species is to create dementia friendly routes and a single species acts as a clear marker route. Confirmation for the submission of a management plan has also been confirmed.

5.8.10 No objection is raised by the Tree Consultant, following the submission of the above information. Should permission be granted the details of trees and shrubs as well as a detailed management plan would have been dealt with by condition.

## **5.9 Ecology regarding development within the zone of influence (ZOL) for the Essex Coast RAMS.**

5.9.1 The application site falls within the 'Zone of Influence' for one or more of the European Designated Sites scoped into the emerging Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). This means that residential developments could potentially have a significant effect on the sensitive features of these coastal European Designated Sites, through increased recreational pressure etc.

5.9.2 The development of one dwelling falls below the scale at which bespoke advice is given from Natural England (NE). To accord with NE's requirements and standard advice an Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulation Assessment (HRA) Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance. The findings from the HRA Stage 1: Screening Assessment are listed below:

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

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

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

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

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

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

5.9.3 Summary of Appropriate Assessment - as a competent authority, the LPA concludes that the project will, without mitigation, have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account NE's advice, it is considered that mitigation, in the form of a financial contribution of £127.30 per dwelling (a total of £3,691.7) is necessary. In the absence of a signed legal agreement to secure the abovementioned contribution, the impact of the development is not able to be mitigated and thus, this would constitute a reason for refusal of the application.

## 5.10 Developer Contributions

5.10.1 Along with other key principles, policy S1(11) requires decision makers to *"Identify the capacity and constraints of local infrastructure and services and seek to mitigate identified issues through developer contributions including Section 106 agreement and / or Community Infrastructure Levy and other funding sources"*.

5.10.2 A document with the Draft Heads of Terms accompanies the application, which include the suggested developer obligation. It is noted that amendments have been incorporated to the proposed development; however, the document was not revised. Below are detailed the general obligations that the applicant is willing to enter into:

- The discounted sales element would be sold at a 20% discount compared to local market value.
- Occupation is to be restricted through a cascade mechanism, prioritising residents of Tollesbury first. The lead occupier should be aged over 60 years of age.
- A restriction to the income level is proposed. It is noted this changed during the process of the application to be no more than £31,000 pension income per household.
- Upon resale (following the initial sales), owners will restrict sales to people who meet the above occupation criteria to those living within the District of Maldon for the first 13 weeks.
- Formation of a Management Company with responsibility for future management and maintenance of the children's' play area, open spaces, footways, related lighting, street furniture, signage etc and all landscaping.
- Provision of the multi-use community building to an agreed specification before the occupation of the 14th dwelling or 50% occupation of the development and transfer it to a management community.
- Offer the necessary contribution required by the NHS
- Discuss the potential opportunity for the NHS to use the Social Heart Community Building for flexible health care space.

5.10.3 Other necessary obligations which are not mentioned above would include the following:

- Provision of 5 affordable rented units to be taken over by a Register Provider.
- Highways obligations for the monitoring of the Travel Plan.
- The mitigation of the impact of the development on the Essex Coast, as discussed in the relevant section of the report above.
- An off-site drainage strategy to improve the situation downstream at the industrial units.



- 5.10.4 In the absence of a signed legal agreement to secure the abovementioned developer obligations, the impact of the development is not able to be mitigated and thus, this would constitute a reason for refusal of the application.

## 5.11 Other Material Considerations

### Archaeology

- 5.11.1 The Historic Environment Officer was consulted, and it has been advised that the proposed development site has the potential to impact on archaeological remains. Archaeological deposits are both fragile and irreplaceable and any permitted development on site should therefore be preceded by a programme of archaeological investigation which should be secured by an appropriate condition. Should permission be granted, this matter would have been dealt with by condition.

### Contamination

- 5.11.2 Policy D2 of the Approved MDLDP states that where appropriate, development will include measures to remediate land affected by contamination and locate development safely away from any hazardous source. The Environmental Health Specialist has advised that "*Historic mapping indicates an unknown tank on the site.*" Therefore, a condition for a discovery strategy is suggested. Should permission be granted, this matter would have been dealt with by condition.

### Foul Drainage Strategy

- 5.11.3 The Environmental Health Specialist was consulted for the purposes of the application and concerns have been raised about the impact of foul drainage and the effectiveness of the Anglian Water main. In particular it is stated that "*There has been at least one incident where the sewage treatment works has become inundated with surface water causing a release into the estuary. This coincided with a sampling failure in one of the estuaries commercial shellfish beds.*" The Environmental Health Specialist would therefore require reassurance that the development would not impact on the shellfish beds and they will remain protected. To do so details of the foul water drainage scheme are requested to be submitted and approved by the LPA. Should permission be granted, this matter would have been secured by condition.

### Waste Management

- 5.11.4 Although a refuse Swept Analysis has been submitted with the application to show the access and movement of refuse vehicles within the site, details of a refuse management plan should be submitted with the application. In design terms, refuse should be integral to the design when no private amenity space is proposed. Although no details of such integral design considering refuse has been submitted, it is noted that details of the position of collection points and provision of retention of waste in areas away from public views would be considered necessary to be secured by condition. Should permission be granted, this matter would have been secured by condition.

## 6. ANY RELEVANT SITE HISTORY

- 6.1 The relevant planning history is set out below:

- **RES/MAL/19/00197** – Reserved matters application for the approval of access, appearance, landscaping, layout and scale for 18No. dwellinghouses on

approved planning application OUT/MAL/14/01202 allowed on appeal  
APP/X1545/W/15/3136324 (Outline application for up to 24No. village houses). –  
DISMISSED ON APPEAL

- **OUT/MAL/14/01202** - Outline application for up to 24No. village houses. –  
REFUSED – APPEAL ALLOWED
- **OUT/MAL/13/00869** - Outline application for village housing. - Land North Of 48  
Woodrolfe Road Tollesbury – REFUSED

## 7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Tollesbury Parish Council	<p>A few responses have been received by the Parish Council. Although a number of positive aspects to the design of the scheme were recognised, the following concerns were raised:</p> <ul style="list-style-type: none"> <li>• Strategic and contextual elements of the proposal</li> <li>• Sustainability</li> <li>• Flooding</li> <li>• Location</li> <li>• Integration</li> </ul> <p>Relevant policies highlighted by the Parish include Policies S1, S2, S8, D1, D2, D5, H2, H3, H4, N1 and N3.</p>	Comment noted and addressed within the officer report.

### 7.2 **Statutory Consultees and Other Organisations**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Highways Authority	No objection subject to condition.	Comments noted and discussed in section 5.5 of the report.
Natural England	It has been highlighted that the application site falls within the 'Zone of Influence'. A Habitat Regulation Assessment is required before the grant of any planning permission.	Comment noted and addressed at section 5.9 of the report.
Ecology Consultant	No objection subject to conditions.	Comments raised by the Ecology Consultant noted

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
		and addressed in section 5.8 of the report.
Essex Police Designing Out Crime	No objection raised; reference is made to the need to create safe places stated within the NPPF. It has been also advised that the Applicant has been in contact with the Essex Police Designing Out Crime to request suggestions to provide security.	Comments noted.
Lead Local Flood Authority	No objection, subject to conditions.	The comments raised by the Lead Local Flood Authority are addressed in section 5.7 of the report.
Essex County Fire and Rescue Services	No objection. Following submission of further documents, the EC Fire and Rescue Services considers the Access for Fire Service is satisfactory. Advice in relation to new roads and surfaces, building regulations, water supplies and sprinkler systems are provided within their response from the Applicant's information.	Comments noted.
Tree Consultant	Following clarifications from the Application, no objection is raised by the Tree Consultant. It is advised that the responses to address the comments made are now considered acceptable.	Comments noted and addressed in section 5.8 of the report.
Housing Growth Lead	As the application is for sheltered/retirement housing rather than extra care/independent living the Housing Growth Lead will not be commenting on the proposal as it is outside ECC's remit as adult social care provider.	Comments noted.
Archaeology	The proposed development site has the	Comments noted and addressed in section 5.11 of the report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	potential to impact on archaeological remains. Archaeological deposits are both fragile and irreplaceable and any permitted development on site should therefore be preceded by a programme of archaeological investigation which should be secured by an appropriate condition attached to any forthcoming planning consent.	
NHS	The CCG and the Mid and South Essex HCP has identified that the development will give rise to a need for additional healthcare provision to mitigate impacts arising from the development and requests that these are secured through a S106 legal agreement attached to any grant of planning permission. In the absence of such mitigation the development would impose an unsustainable burden on local healthcare services.	Comments noted and addressed in sections 5.1 and 5.10 of the report.
Environment Agency	The site is in flood zone 1, there appears to be no contamination issues or any other constraints linked to their remit.	Comments noted.

### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health Specialist	No objection subject to conditions and offsite development contributions to secure flood mitigation.	Noted and addressed in section 5.7 of the report.
Housing Specialist	The Applicant is looking to create a residential specialist neighbourhood for older people,	Comments noted and addressed in sections 5.1 and 5.10 of the report.

Name of Internal Consultee	Comment	Officer Response
	<p>consisting of 29 affordable dwellings and community hub building, with associated landscaping and infrastructure. The affordable Discounted Home Ownership scheme and the Affordable Rented properties will be for people aged 60 and over/people with a disability.</p> <p>Discussions with the Applicant have confirmed that the following units will be provided as Affordable Rented –</p> <p>5 Affordable Rented units comprising of 3 bungalows and 2 maisonettes, (one ground floor and one first floor).</p> <p>The proposal of Affordable Rented units will greatly assist in meeting the housing needs of older people on the Housing Register in the district. Also, the provision of bungalows and high demand for this type of accommodation as identified in Maldon District Council's Local Housing Needs Assessment 2021, will also help meet the housing needs of older people. The rents for these units will be in line with the Local Housing Allowance level inclusive of Service Charge. These properties will be advertised through the Housing Register System and the Council will have 100% nomination rights to the properties in perpetuity that would be detailed in the Section</p>	

Name of Internal Consultee	Comment	Officer Response
	<p>106 Agreement. The Applicant has advised that they have applied to Homes England ( Regulator of Social Housing) to become a Registered Provider for social housing.</p> <p>The Applicant has also advised with regards to Building Regulations, that the units will be built to Part M4 (3) which will reduce any cost for adaptations from the Council's Disabled Facility Budget.</p> <p>With regards to the sale of the Discount Market Properties, the Applicant has agreed to a cascade mechanism that would be set in perpetuity in the Section 106 Agreement with priority given to residents in the Parish of Tollesbury, then to the Parishes in the rural north of the district and finally to the remaining Parishes in Maldon to ensure the scheme assists people of the district.</p> <p>The Applicant has proposed a maximum household pension income of £31k from Regional data. However this does not identify from their source the lowest pension income figure for a one person household enabling them to access this scheme.</p> <p>Whilst Strategic Housing welcomes the proposal of 5 Affordable Rented units especially as some of the units proposed are bungalows, the Local</p>	

Name of Internal Consultee	Comment	Officer Response
	Housing Needs Assessment 2021 identifies a tenure mix of 75% Affordable/Social Rented and 25% Affordable Home Ownership. Strategic Housing Services would give strong support if developed in the main settlement areas of the district but the proposal still has some value in meeting older persons housing provision within the district	

#### 7.4 Representations received from Interested Parties

##### 7.4.1 Representations received objecting to the application

33 letters of objection have been received.

Objection Comment	Officer Response
Inappropriate location for housing.	Noted and addressed in section 5.1 of the report.
Impact on highway network during the construction and occupation of the development.	Noted and addressed in section 5.5 of the report. It is noted that should development was granted a control of construction would have secured through the imposition of a Construction Management Plan condition.
Impact on wildlife	Noted and discussed in section 5.8 of the report.
Flooding issues	Noted and discussed in section 5.7 of the report.
Inappropriate topography for people with mobility issues	Noted and discussed in section 5.1 of the report.
Impact on existing infrastructure	Noted and discussed in sections 5.1 and 5.10 of the report.
Supports of the scheme are from outside the local area.	Noted.
Concerns regarding protection of the landscape	Noted and addressed in section 5.3 of the report.
If approved, advertisements should be limited.	This is a matter that goes beyond the parameter of the current application and would require the submission of a separate application for advertisement consent.
Affordable housing is not needed in the area.	Comment noted. Matters in relation to affordable housing are discussed in section 5.1 of the report.

<b>Objection Comment</b>	<b>Officer Response</b>
Limited access to services and facilities	Noted and discussed in sections 5.1 and 5.10 of the report.
The village has need for affordable housing for young people.	Comment noted. However, the LPA is required to assess the application that is in front of them than other speculative proposals.
The scheme does not support mixed communities.	Comment noted.
Less than 30 residents want retirement homes.	Comment noted. However, no evidence has been submitted to demonstrate the suggested demand.
Inaccuracies within the Applicants submission are raised.	Comments noted.
Concerns regarding pretermination, due to the Applicant's engagement with the Council.	It is noted that a Planning Performance Agreement was agreed between the LPA and the Applicant to engage prior and during the process of the Application. It is noted that this is common practice for major schemes and a proactive approach encouraged by the NPPF. However, it should be highlighted that this engagement is to offer advise to the Applicant and not agree the decision of an application.
Concerns regarding the engagement strategy followed by the applicant to inform local residents about the development.	Noted and addressed in section 5.1 of the report.
Concerns regarding maintenance charge, which is considered unrealistic to achieve the necessary maintenance, including lifts.	Comment noted.
Unsustainable development	Noted and addressed in section 5.1 of the report.
Inappropriate housing mix.	Noted and addressed in section 5.2 of the report.
Parking issues.	Noted and addressed in section 5.5 of the report.
There are existing issues with swage overflow.	Noted and addressed in sections 5.7 and 5.9 of the report.
No provision of pedestrian crossing.	Noted and addressed in section 5.5 of the officer report.
Concerns are raised regarding inclusion through the proposed provision of community building, which would potentially used exclusively from the future residents.	Comment noted.
No income restrictions have been set for the for those with disabilities.	Noted and discussed in section 5.1 of the report.
Concerns regarding compliance of the submissions with the Equality Act 2010 regarding people with disabilities	Comment noted.
Concerns regarding the upkeep of the estate roads.	This matter would have to be dealt with by the management company to be set



Objection Comment	Officer Response
	up by the Applicant. Should permission be granted the provision of a Management company to take over the maintenance of the site would have been secured by condition.
The development would not comply with the NPPF.	Noted and addressed through the officer report.
Impacts on pedestrian safety.	Comment noted and addressed in section 5.5 of the report.
Absence of cycle parking facilities.	Comment noted and addressed in section 5.5 of the report.
Concerns regarding contribution towards education.	Be reason of the nature of the proposed development, it is not considered reasonable a contribution for education to be sought and it has been requested by the ECC Education, which are consulted for residential schemes over 50 units.
Concerns regarding the funding on-site warden service.	This would have to be funded by the future occupiers. These matters would have been secured by S106 agreement, should permission be granted.
Concerns are raised around needs assessment and occupation restrictions.	These matters are addressed within section 5.1 of the report.
Several comments are raised around the supporting documents submitted by the Applicant.	Comments noted and addressed within the officer report.
The submitted Updated Needs Assessment is silent on Climate change.	Noted. However, these issues are addressed within other submission document and discussed in section 5.6 of the report.
Concerns regarding liability and costs in case of flooding.	This matter is addressed within sections 5.6 and 5.10 of the report.
Concerns regarding proximity to public transport.	Noted and addressed in section 5.1 of the report.

7.4.2 **79** letters and a petition signed by 144 people were received **in support** of the application and the reasons for support are summarised as set out in the table below:

Supporting Comment	Officer Response
The development is required to free up family homes and properties for young people.	Comment noted. However, due to the adverse impacts identified in the report above, it is not considered the benefits arising from this point would be able to outweigh the harm identified.
The development would offer what older people require.	Comments noted. Matters relating to quality of life are addressed in section 5.6 of the report.
The development would provide quality of life and suit the health problems of the older people.	
Existing available retirement units are not able to provide the same quality of life.	

Supporting Comment	Officer Response
Suitable properties to downsize.	Comment noted.
The development would be suitable for wheelchair users and older people.	
People will be able to stay near their families.	
There is a need for affordable housing in the District.	Comment noted and addressed in section 5.1 of the report.
Street lighting and traffic calming would assist the scheme.	Comments noted. Matters in relation to traffic calming measures are outside the LPA's remit.
Issues in relation to accessibility to pavements applied equally to existing residents of the village.	Noted; however, consideration should be had to the fact the site is outside the village settlement further away from the pedestrian network.
There is no alternative to address the need.	Comment noted and discussed in section 5.1 of the report.
Low maintenance of the properties	Comment noted.
The development is located near services and facilities.	Noted and addressed in section 5.1 of the report.
There are not enough dwellings for older people.	Comment noted.
Prevent people moving to a care home.	
Aging population.	
People of similar age and interest living in the same location.	
Older people will be able to live locally.	
Lack of bungalows.	
Older people will remain independent.	
Many old people live in unsuitable housing.	

7.4.3 4 letters were received **commenting** on the application and summarised as set out in the table below:

Comment	Officer Response
There are other more suitable location within the district for this development.	Comment noted. However, the LPA is required to assess the application that is in front of them.
Request to view the pre-application response.	It is noted that re-application discussions and responses are confidential.
Several comments and weblinks have been provided regarding sustainability and potential flooding.	Comments noted.
Comments are raised regarding the objections of the Tollesbury Parish Council in relation to flood risk, when no objection was raised by the Inspector who assessed the outline planning permission (14/01202/OUT).	It is noted that matters relating to flooding are addressed in section 5.7 of the report.
Issues in relation to residential amenity of the nearby neighbour are raised and mitigation is suggested to overcome those.	The matter is addressed in section 5.4 of the report.

**8. PROPOSED REASONS FOR REFUSAL**

- 1 The proposal, if developed, by reason of its quantum of development, layout, grain, loss of woodland, scale, design and relationship with the wider area, would harm the character and appearance of the area. Such that there would be a conflict with Policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and guidance contained within Section 12 of the National Planning Policy Framework. Furthermore, insufficient information has been submitted to demonstrate that the development would constitute Affordable Housing in its entirety and that there is an identified need for this quantum and type of development in the area that cannot be met elsewhere in the District and that the proposal would meet the needs of residents of the District that are not met by the market, contrary to policies H3 and H5 of the Maldon District Local Development Plan and guidance contained within Section 5 of the National Planning Policy Framework. Therefore, the development would be unacceptable and the adverse impacts identified would significantly and demonstrably outweigh the benefits, when the development is assessed against the policies of the National Planning Policy Framework as a whole.
- 2 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the proposal includes inadequate provision to secure the delivery of affordable housing and necessary occupation restrictions to meet the identified need in the locality for specialist housing for older people and address the Council's strategic objectives on affordable, contrary to Policies S1, H1, H3 and H5 and I1 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.
- 3 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing the provision of the necessary contribution towards health care provision, as identified by the NHS Mid and South Essex, the impacts of the development on the existing health care services would not be able to be mitigated contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan and the NPPF.
- 4 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, and I1 of the Maldon District Local Development Plan and the NPPF.
- 5 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the necessary provision Travel Information Pack for sustainable transport and monitoring contribution, the impact of the development cannot be mitigated contrary to Policies S1, D1 and T2 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.
- 6 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the necessary offsite drainage strategy to improve the situation downstream at the industrial units to the east of the site, the impact of the development cannot be mitigated contrary to Policy S1 and D5 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.

**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE**  
**30<sup>th</sup> March 2022**

**MEMBERS' UPDATE**

**AGENDA ITEM NO. 5**

<b>Application Number</b>	<b>21/00702/FUL</b>
<b>Location</b>	Land North Of 48 Woodrolfe Road, Tollesbury, Essex
<b>Proposal</b>	Create residential specialist neighbourhood for older people, consisting of 29 affordable dwellings and community hub building, with associated landscaping and infrastructure.
<b>Applicant</b>	Mr Rob Scott - Lewis & Scott Retirement Living Ltd
<b>Agent</b>	N/A
<b>Target Decision Date</b>	01.04.2022
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>Tollesbury East</b>
<b>Reason for Referral to the Committee / Council</b>	Major Application

**5.1 Principle of development**

5.1.27. Within paragraph 5.1.27 of the committee report, reference is made to the maximum household pension income level, which is proposed to be £31,000. This maximum income was discussed with the Council's Housing Senior Specialist and it was based on the Applicant's recommendation to change to originally proposed income level. Following the submission of the Council's Housing Specialist consultation response, comments from the Applicant have been received in that respect stating that the maximum pension income for a single household would be £17,833 per annum. This is based on the average income for a single household using the latest ONS data. Even though it is accepted that this a lower figure for a single household than the one previously discussed with the Council's Housing Specialist, it is noted that this figure is based on the average pension income rather than a lower pension income to target those whose needs are not met by the market. Therefore, it is considered that this clarification does not fully address the concern previously raised in relation to acceptability of the eligibility criteria, as set out by the Applicant.

**5.11 Other Material Considerations**

5.13.5. It should be noted that since the publication of the committee report, the appeal decision in relation to application 21/00075/OUTM relating to a development involving the erection of 232 dwellings to form phase 2 of previously approved retirement community in Burnham-on-Crouch was allowed. Concurrently a cost appeal has been submitted for the same development and awarded full costs.

5.13.6. The Inspector in his decision to allow the proposed development has given consideration to the lack of 5 year housing land supply, which is currently 2.92 years

and set out the importance of paragraph 11di of the NPPF and the necessity to engage the tilted balance when assessing an application for new housing. the Inspector found out that the benefits of the development would many and substantial and the impact of the development would not significantly and demonstrably outweigh the benefits.

- 5.13.7. Although the officer report does not have reference to the actual number of years that Council's supply is currently, the officer when drafting the report was fully aware of the current position and the current situation was given significant weight to lack of a 5YHLS and has also engaged the tilted balance, assessing the benefits arising from the development and against the harm. The officer report clearly identifies the unacceptable impact of the development that would occur to the character and appearance of the area. Although consideration has been given to the acute need of the District for more housing, material concerns have been raised in relation to the quantum of development, the limited coverage of the site and the resultant impact on the character and appearance of the area. The scheme is for a specific type of development and it is not considered that the need, for the reasons explained in detail within the officer's report, has not been appropriately evidenced and it is not consider targeting what the Applicant is suggesting, namely those whose needs are not met by the market. For those reasons, officers consider that the development has been assessed against the correct test, as set out in the NPPF and this is to weight the benefits of a development against the harm. Therefore, officers disagree with the Applicants comment that the report has not accurately or correctly assessed the proposed development and it clearly states that the harm of the development significantly outweighs the benefits.
- 5.13.8. Furthermore, it is important to be noted that there are material differences between the two proposed developments, including but limiting to the fact that the Council has never objected to the need of the allowed development in Burnham-on-Crouch, as this is a need that has been demonstrated by the Applicant and has been identified within the Council's Specialist Housing SPD. Furthermore, the allowed development is located in one of the three main areas that are considered being the most appropriate to provide specialist housing. The allowed development also involves a financial contribution of £4,207,875 (index-linked) towards off-site affordable provision, which is to meet the general affordable housing needs of the District rather than a need in an area that has not been justified, as that of the currently proposed development. Furthermore, the scheme will be a read as part of 'phase 1' of the retirement village and appropriately interact with the site in its entirety this is significantly different to the concerns raised with the proposed application within the case officer's report.
- 5.13.9. The Applicant during the process of the application has also interrogated the content of the Council's most recent Local Housing Needs Assessment (May 2021). It is important to note that due weight has been afforded by the Inspector assessing the proposed retirement community in Burnham-on-Crouch to the findings of this document. In particular, within the Appeal cost decision it is stated that *"In addition, the appeal proposal is for two types of residential accommodation, older persons and affordable housing, that are most in need in the District, as set out in the Council's own Maldon District Local Housing Needs Assessment Final Report, dated May 2021. The need for both types of accommodation is acute and growing"*. Therefore, it is considered reasonable that weight has been given to findings of this document, which identified a significant surplus on affordable sheltered housing for older people. The Applicant's submissions are not considered to have demonstrated a different need from that identified in the Maldon District Local Housing Needs Assessment Final Report.

5.13.10. In light of the above, it is considered that the Council, has assessed the proposed development taking into consideration the lack of 5YHLS and against the correct test that the *“benefits of the proposed development do not overcome the harm caused to the character of and appearance of the area and to the amenity of existing occupiers”*.

5.13.11. The Applicant has requested that the application is differed to a later committee, in order to discuss an amended proposal with the Council. It is noted that the alternative suggestions would not be able to address the objections against the harm identified to the character and appearance of the area, as they have not proposed a reduction to the number of units proposed. Furthermore, it should be noted that in accordance with the protocol it is in the Councillors’ gift to make a proposal for deferment of a committee item than that of the Applicant’s.

#### 7.4 Representations received from Interested Parties

7.4.1. 5 letters of objection and 30 letters of support have been received. The points that have not been covered in the committee report are as follows:

Objection Comment	Officer Response
The proposed housing mix does not accord with the Older Persons Housing Strategy	Comment noted and addressed in section 5.2 of the report.
Concerns have been raised regarding the consultation response received by the Essex County Fire and Rescue Services	Comments noted. It is noted that following the submission of the amended plans an amended consultation response from the Essex County Fire and Rescue Service has been received and no further points of concerns are raised.
Comments in relation to the amended plans, additional supporting information and consultation responses have been raised.	It is noted that these matters have been considered addressed within the officer report and this Member’s Update.
The development would not comply with the Local Housing Needs Assessment.	Noted and addressed within section 5.1 of the report.

Supporting Comment	Officer Response
People will have more money in the bank.	This is not a material planning consideration.
People will be able to live in the homes they want regardless of their budget.	Comments noted. The assessment of the need for the proposed development is carried out in section 5.1 of the report.
There are people that are old and still have a mortgage.	

7.4.2. It is also noted that a letter has been received confirming that the representation previously submitted under their name is not one that has been sent by them or with their authority and want this to be removed. This was a comment of support.



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
10 AUGUST 2022**

<b>Application Number</b>	<b>22/00643/FUL</b>
<b>Location</b>	Claremont Garden Centre Bryants Lane Woodham Mortimer Essex CM9 6TF
<b>Proposal</b>	Construction of a building to be used as a cafe, office and staff room, greenhouse, new walkway, extended car park, improved internal vehicle access, new substation, relocated polytunnel, and associated landscaping.
<b>Applicant</b>	Claremont Garden Centre
<b>Agent</b>	Mrs Lisa Skinner - Phase 2 Planning
<b>Target Decision Date</b>	16 August 2022
<b>Case Officer</b>	Hannah Dungate
<b>Parish</b>	<b>WOODHAM MORTIMER</b>
<b>Reason for Referral to the Committee / Council</b>	Major application Member Call-in by Councillor M F L Durham for the following reason: <i>"Although this is additional development in a rural setting, this application accords with the policies supporting employment in the district"</i>

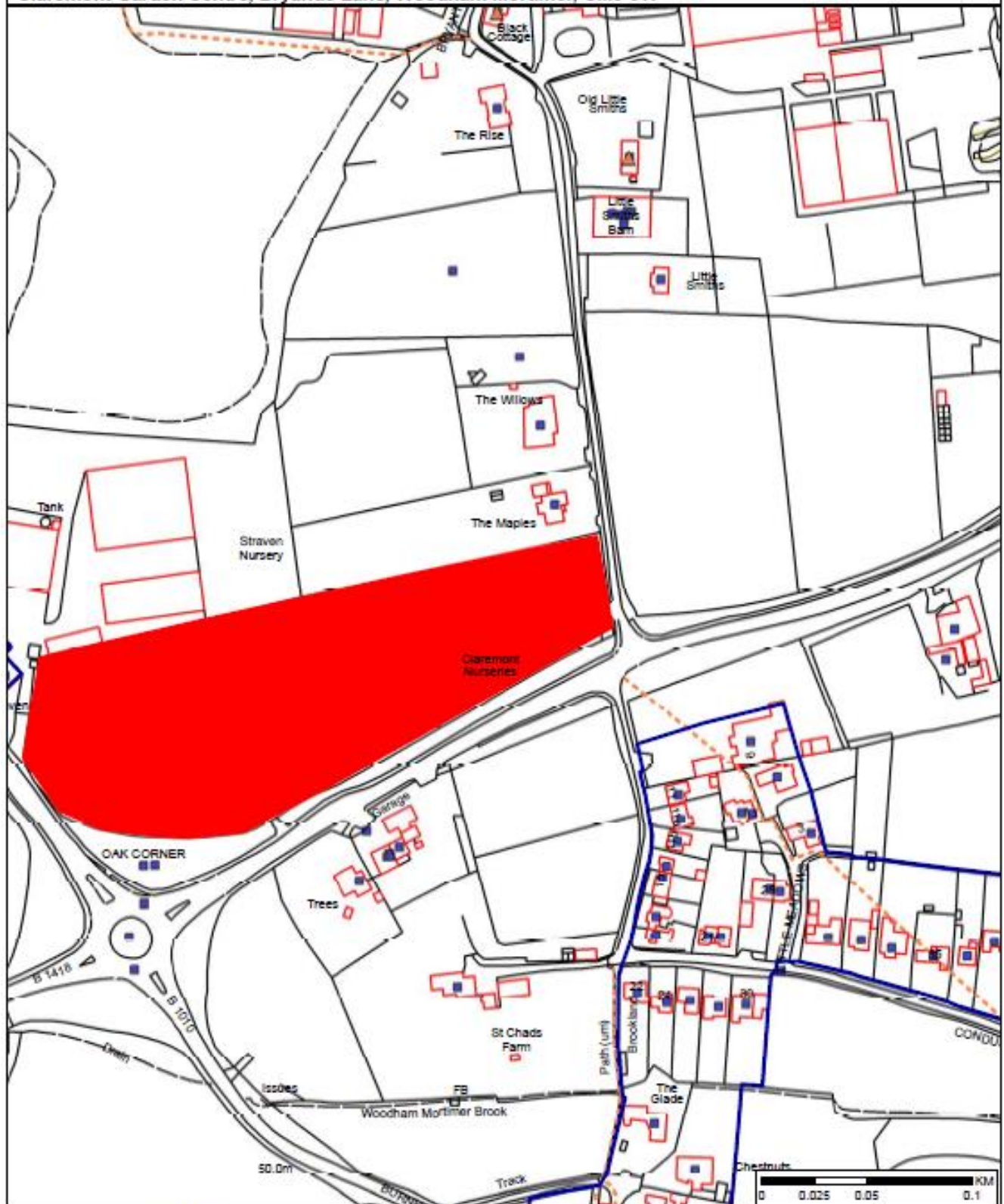
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see below.

**22/00643/FUL - The Maldon Garden Centre Ltd**  
 Claremont Garden Centre, Bryands Lane, Woodham Mortimer, CM9 6TF



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Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: North Western Area

Date: 01/08/2022

MSA Number: 100018588



### **3. SUMMARY**

#### **3.1 Proposal / brief overview, including any relevant background information**

- 3.1.1 The application site is located on a corner plot adjacent to the north of Maldon Road (A414) and to the west of Bryants Lane. The area is locally known as 'Oak Corner'. The site is located within the countryside outside of the defined settlement of Woodham Mortimer.
- 3.1.2 The application site comprises a garden centre building, as well as external sale and storage areas. There is an unmarked area for the parking of cars to the south eastern part of the site and there is a polytunnel located on western half of the site as well as an informal area for the overflow parking of cars. The remainder of the site to the west is undeveloped overgrown grassland.
- 3.1.3 Access and egress to the site is principally taken from Bryants Lane to the east of the site via a gated entrance, although an unused secondary access also exists midway along the southern boundary to the west of an existing bus stop on Maldon Road.
- 3.1.4 There is a slight embankment from Maldon Road (A414) down into the site. The embankment is landscaped, laid to grass with trees and hedgerows. Beyond the trees and hedgerows is steel palisade fencing which encloses the site along the south western boundary.
- 3.1.5 Planning permission was granted in 2017 for the extension of the existing garden centre incorporating a new coffee shop, external storage area and formalisation of the parking at the site (Reference 17/00599/FUL). The extension consolidated the existing garden centre by infilling the space to the front of the building as well as providing an extension at the rear. The extension at the rear comprised the proposed café, toilets and storage area. This café measured 206sqm in area and contained a servery, kitchen and store area. The application expired on 13 November 2020; the Council has no evidence that the development was ever commenced. Notwithstanding this, the Applicant has stated that the new access to the site, approved as part of this application, was implemented. It therefore, would appear, that the Applicant considers that the permission is extant.
- 3.1.6 The current proposal seeks to construct a separate building to the garden centre which is proposed to be used as a café, office, and staff room. The building would be located in the western part of the site, in the position of the existing polytunnels, and would be located 82.7m away from the existing garden centre building. The polytunnels would be re-located further west, to the rear of the café building, as a result of the proposed development. To the front of the proposed café would be a courtyard garden. A covered pergola walkway is also proposed to connect the car park area and garden centre with the proposed building. The proposed building would have a total area of 505.6sqm.
- 3.1.7 The new building would be single storey and would have a pitched roof design. It would have a Z-shaped layout comprising an entrance lobby, bar area, large open plan seating and dining area, a kitchen area, a lounge area, a staff room, an office, and water closets. The main body of the building would measure 6.2m in height, 2.8m in eaves height, 5.8m in depth and 24.9m in width. To the north of the building would be a lean-to roof element which would measure 5m in height, 2.3m in eaves height, 18m in depth and 6.4m in width. This element would attach onto a pitched roof front projection at the building which would measure 4.2m in height, 2.3m in

eaves height, 7m in depth and 6.8m in width. To the rear of the building would be a pitched roof projection measuring 5m in height, 2.3m in eaves height, 9m in depth and 7.5m in width.

- 3.1.8 Also proposed is a new greenhouse structure located adjacent to the café building, a substation located at the entrance of the site and an extended car park. The car park would comprise 117 car parking spaces and 30 disabled parking spaces.
- 3.1.9 As part of the submission an overlay drawing has been submitted, to show the extent of extensions at the garden centre approved under planning application 17/00599/FUL. However, no floor plan or elevation drawings have been submitted as part of this application. Furthermore, there is no mention of these works in the applicant's description of development on the application form. Therefore, these extensions to the existing garden centre buildings are not considered to have been included as part of the proposal and therefore are not assessed as part of this application.

### **3.2 Conclusion**

- 3.2.1 Having taken all material planning considerations into account, an objection is raised to the principle of the proposed development by reason of its location outside the defined settlement boundary, which would result in material harm to the character of the area. The evidence supplied is also not considered adequate to sufficiently justify that there is an essential or functional need for the building or that it would have an ancillary relationship with the existing garden centre business. Furthermore, insufficient parking provision would be available at the site. In light of the above, it is considered that the development would be contrary to the policies of the development plan to an extent that cannot be outweighed or off-set by the benefits of supporting an existing agricultural enterprise. Therefore, it is considered that the development is contrary to policies S1, S8, E4 and D1 of the Maldon District Local Development Plan.

## **4. MAIN RELEVANT POLICIES**

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

### **4.1 National Planning Policy Framework 2021 including paragraphs:**

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 54-58 Planning Conditions and Obligations
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 174-188 Conserving and enhancing the natural environment

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

- S1 Sustainable Development

- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- E1 Employment
- E4 Agricultural and Rural Diversification
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

#### **4.3 Relevant Planning Guidance / Documents:**

- Planning Practice Guidance (PPG)
- Maldon District Design Guide Supplementary Planning Document (SPD)
- Maldon District Vehicle Parking Standards SPD

### **5. MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

- 5.1.1 The Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the National Planning Policy Framework (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 Local Development Plan (LDP).
- 5.1.2 Within the NPPF there is a presumption in favour of sustainable development (the 'presumption') which is central to the policy approach in the Framework, as it sets out the Government's changes to the planning system and emphasizes the need to plan positively for appropriate new development. The NPPF replaces Local Plan policies that do not comply with the requirements of the NPPF.
- 5.1.3 It is necessary to assess whether the proposed development is 'sustainable development' with regard to three dimensions defined in the NPPF, which are an economic, social and environmental role. If the site is considered sustainable then the NPPF's 'presumption in favour of sustainable development' applies.
- 5.1.4 Section 6 of the NPPF seeks to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This support includes the sustainable growth and expansion of all types of businesses and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings; the support of sustainable rural tourism and leisure development which respect the character of the countryside and the development and diversification of agricultural and other land-based rural businesses.
- 5.1.5 The NPPF should be read in conjunction with policies E1, and E4 where they are relevant to economic development and growth in rural areas. Policy E1 of the LDP recognises that the District's economy comprises employment in high quality manufacturing, construction, business, and light and general industry, as well as non-traditional employment in sectors such as education, health, retail and tourism. The

Council will encourage employment generating developments and investment in the District and this will be achieved through the regeneration, modernisation and expansion of existing employment sites.

- 5.1.6 Policy E4 of the LDP goes on to say that the Council will support the development of new buildings or activities associated with agriculture and other land-based rural businesses subject to certain criteria which require that there is a justifiable and functional need for the building/activity and the function of the proposed building / activity is directly linked, and ancillary to, the existing use.
- 5.1.7 The proposal relates to the construction of a café / restaurant building which would serve breakfast, lunch and afternoon tea and would operate during the same opening hours as the existing garden centre. The proposal would introduce a food and drink (Use Class E(b)) use to the site.
- 5.1.8 Application 17/00599/FUL included the provision of a café. This café was attached to the rear of the existing garden centre building and was considered to be ancillary to the existing use of the site, in size and operation. The Applicant, within their supporting documents, has opined that this is a material consideration of significant weight in the determination of this current application.
- 5.1.9 The following section of Policy E4 is considered to be of relevance:
- 'The Council will support the development of new buildings or activities associated with agriculture and other land-based rural businesses where:*
- 1) *There is a justifiable and functional need for the building/activity;*
  - 2) *The function of the proposed building/activity is directly linked, and ancillary to, the existing use; and*
  - 3) *The building / activity could not reasonably be located in existing towns, villages or allocated employment areas.'*
- 5.1.10 Very limited information has been submitted with the application to demonstrate that there is a justifiable need for a café / restaurant in this rural area, other than stating that permission for a café has previously been approved on site and that the proposed development would be part of the garden centre use.
- 5.1.11 The supporting statement relies heavily on the fact that the café / restaurant is ancillary to the wider use of the garden centre. However, it is stated as part of the supporting documents for the application that the proposed café building would have the same opening hours as the existing garden centre. A letter of representation from the owner of the garden centre has also requested that the closing hours be restricted to 5.30pm to ensure the same trading hours for both uses. However, during the life of the application, the agent for the application has written to advise that *"The nursery opening hours are unrestricted at present and the hours of use are generally 8am to 8pm"* and the suggested opening hours by Environmental Health are *"not considered to be reasonable in the light of the current operating hours for the nursery"*.
- 5.1.12 Due to the operating hours suggested by the agent, it would appear that the café would function as a separate restaurant rather than an ancillary use to the existing garden centre. In this respect, it is highly unlikely that a not insignificant number of those visiting the site would be doing so in order to visit the garden centre and thus the café / restaurant would appear to function as a separate restaurant rather than an ancillary use to the garden centre. The proposed operating hours, therefore, taken together with the size and scale of the building would further substantiate the view

that the proposed café building would become the main use at the site (or at the very least an equally attracting use) with the garden centre potentially becoming the ancillary element of the site as opposed to the primary use as required by policy E4.

- 5.1.13 The proposed development has a noticeable degree of separation and detachment from the existing building being used as the garden centre. In addition to its size, scale, number of covers, and hours proposed, the proposed café can be accessed independently of the garden centre (the planning statement refers to a gate to provide a walkway between the external sales area and the cafe). As such, visitors could access the café without visiting the garden centre at all. Furthermore, it is also noted that the proposed café would be run as a separate business to the garden centre, which is noted within the Design and Access Statement submitted with the application. This is in contrast to the previously approved scheme where the café was an integral part of the garden centre building and could only be accessed through it. As such, it is considered that the proposed development would function as an independent commercial entity and would not have functional or ancillary link to the existing garden centre,
- 5.1.14 As part of the application the Applicant has attempted to justify the size of the building by stating that the proposed seating numbers would be less in the proposed café building, at 88 seats, as opposed to the 96 seating spaces in the previously approved café. However, it is noted that there is no limitation to the number of seats that could be provided within the previous application, only a limitation of the total area to which seating could be provided, and as such there is no way to control or enforce the number of seats available within the proposed café. Although 139.75sqm has been shown in yellow for the proposed café seating, there is the opportunity for the whole area of 217.9sqm, comprising the lounge and the dining area, to be used for seating. Within the previously approved café, an area measuring 169.5sqm was available for seating in comparison to the area of 294.1sqm as part of the current application. Notwithstanding the fact the building will not be part of the garden centre and would appear remote and separate it is not considered appropriate or reasonable to rely on the number of seats within the café granted as part of the 2017 application as a fallback position for the current scale of the proposed café/restaurant.
- 5.1.15 This is further exacerbated by the proposed staff numbers for the proposed development. It is noted that at present there are 15 full-time members of staff on the site. As a result of the proposal this would be increased by an additional 15 full-time staff members and 25 part-time, equating to 23 members of staff at the proposed café / restaurant. Given the number of staff proposed, as well as the scale of the building, in comparison to the previously approved café, the new building would give the impression of being the primary use at the site, instead of the existing garden centre.
- 5.1.16 It has also been argued that the existing café approved as part of the previous application would be re-instated to retail use so that there would not be two food premises on site. However, the 2017 application is required to be undertaken in accordance with the approved plans and therefore, this would be a breach of planning control if the space allocated to a café was used for any other use. Furthermore, as the Applicant for the current application is different to the Applicant and person in charge of the garden centre, this cannot be considered to be a reasonable assumption. Therefore, taking in to account the planning history of the site if the application, as submitted, was approved there is the real possibility that the site could end up with two separate café / restaurants functioning on site.

- 5.1.17 Therefore, taking in to account the above concerns regarding the provision of a single independent café / restaurant on site, and that it has not been demonstrated that there is a justified need for a separate building at the site, this potential conflict between the previous permission and any approval of this application would further compound the harm highlighted above.
- 5.1.18 Restaurants are considered under the NPPF as a main town centre use and without an ancillary link to the garden centre the café / restaurant is considered as an independent facility. Policy E4 also requires it to be demonstrated that the building / activity could not be located in existing towns, villages, or allocated employment areas. Very limited information has been submitted with the application to demonstrate that there is a justifiable need for a café / restaurant in this rural area, other than stating that it is a usual occurrence for there to be this type of facility at garden centres. However, this is not considered to be sufficient in demonstrating a functional need for the business particularly when taking in to account the reasons highlighted above.
- 5.1.19 Having regard to the above, the restaurant / café proposed as part of this application, due to the reasons highlighted above, is not considered ancillary to the wider garden centre use and would therefore, result in a new and separate use being located on site. Furthermore, it has not been demonstrated that there is a justified need for the development or that it could not be located in existing towns, villages, or employment areas.

## **5.2 Impact on Character and Appearance of the Area**

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.
- 5.2.2 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”.*

- 5.2.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:
- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
  - b) Height, size, scale, form, massing and proportion;
  - c) Landscape setting, townscape setting and skylines;
  - d) Layout, orientation, and density;

- e) Historic environment particularly in relation to designated and non-designated heritage assets;
  - f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
  - g) Energy and resource efficiency.
- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (2017).
- 5.2.5 Although the proposed café / restaurant building would be single storey in height and would therefore be relatively low level, it would be located in an area within the countryside which is largely undeveloped. Its separation from the main garden centre buildings, and its associated paraphernalia would mean the further encroachment of built form within the countryside which has not been adequately justified. The spread of the development would be exacerbated by the large parking area which would spread across almost three quarters of the frontage of the site which would completely dominate the site and result in unacceptable urbanisation of the site. Although the current nursery buildings are not particularly high quality or of architectural merit, they represent structures that would usually be found within countryside locations.
- 5.2.6 Given that the building, and associated parking area, would be urban in appearance and would be sited in an area which is currently open and free from built form, it would have an urbanizing impact on the countryside due to the urban sprawl of development across the site and increase in built form, into an open area of grassland. Although the building would be relatively low level in scale, due to its single storey form, it would have a large width and depth.
- 5.2.7 Although it is acknowledged that the site is at a lower level to the main road, and the building would be set back within the site, which would mitigate some of the harm from the building's urbanizing elements, the building would still be visible in views across the site from Maldon Road. The landscaping along Maldon Road, as well as the proposed wildflower garden, would not be sufficient to screen the development from the road, in part as it cannot be relied upon as a permanent means of screening, and in any case would not provide a sufficient justification to mitigate harmful development. The visibility of the proposed building from the main thoroughfare between Maldon and Danbury, particularly on approach from the east, would worsen its intrusive visual impact on the surrounding rural area.
- 5.2.8 The application fails to justify the substantial increase in built form, and as such, the development is considered to have a detrimental impact on the appearance and intrinsic character of the countryside. Due to the proposed siting and large scale of the building, on an area of open grassland, as well as the increase in urban car parking within a countryside location, it would have a detrimental impact on the character and appearance of the site and surrounding area, which has not been off-set or justified by the benefits of supporting existing agricultural practices at the site. Therefore, the proposal is contrary to Policy D1 of Local Development Plan.

### **5.3 Impact on Residential Amenity**

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the Maldon District Design Guide (2017)

- 5.3.2 The application site is bordered by a residential dwelling, The Maples, to the north, as well as a residential property, Straven, to the west. These neighbours would sit between approximately 90 and 130 metres from the proposed development and due to this significant degree of separation, it is not considered to represent an unneighbourly form of development in relation to overshadowing or domination.
- 5.3.3 Whilst the occupier of the nearby properties could be subject to some noise disturbance from the proposed development it must be noted that there would already be noise generated from the ongoing operations at the garden centre during the day. This must also be balanced against the, apparent, likelihood that the café / restaurant would be open later than the garden centre currently is and that this would extend in to the evenings when residents have a reasonable expectation and right to enjoy their properties. It is also acknowledged that if the application were to be approved, conditions including restrictions to hours of use, as well as external illumination would be imposed so as not to increase the level of noise disturbance and light pollution to these properties.

#### **5.4 Access, Parking and Highway Safety**

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards are to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.4.3 The Council's adopted vehicle parking standards state that outside of town centres A3 uses, which are now referred to as E(b) uses under the updated Use Class Order, should provide one parking space per 5m<sup>2</sup> of gross floor area. Likewise, it is stated that retail uses, which would represent the existing garden centre would need to provide one space per 20m<sup>2</sup> of gross floor space. Based on the submitted block plan it would appear that there would be 2,410m<sup>2</sup> of gross floor space in relation to the retail use and approximately 506m<sup>2</sup> of E(b)use. There would, therefore, be a requirement for 222 car parking spaces.
- 5.4.4 It would appear from the block plan proposed that the reconfiguration of the site would result in approximately 117 car parking spaces and 30 disabled car parking



spaces to be provided for both staff and visitors. There would therefore be a substantial shortfall of 75 car parking spaces in parking provision as shown on the provided block plan. Although there is a bus stop located outside of the site, it is unreasonable to expect that visitors of the garden centre, who might purchase large heavy items from the site, would use public transport to visit the site. Furthermore, the proposed café / restaurant is considered to be a separate use from the existing garden centre and is therefore likely to result in more vehicle movements to and from the site, by additional visitors, than if it were ancillary to the existing garden centre.

- 5.4.5 It is noted that the application benefits from a transport statement, which states that the number of vehicle movements from the site would be minor. However, the statement has only assessed the impact of the proposed additional retail space at the garden centre (as a result of the loss of the previously proposed café) instead of the impact of the proposed building. Therefore, it is not considered that this transport statement is reliable in justifying the low level of car parking provision at the site which could result in inadequate off-street parking provision. This could lead to indiscriminate parking, which can not only affect the amenity and convenience of existing residents but may also prejudice the safety of users of the highway or the passage of utility and emergency vehicles along this busy thoroughfare and junction between two existing settlements.
- 5.4.6 The proposal would utilise the access proposed as part of the previous permission 17/00599/FUL. Despite the discrepancies with the Transport Statement, as identified above, the Highways Authority has been consulted and raised no objection to the proposal in terms of the proposed access or the impact on the local highway network capacity in terms of the moderate increase in peak hour trips compared to its existing use. Although concerns have been raised by residents about the use of an alternative access onto Maldon Road instead of Bryants Lane, this does not form part of the proposal and is not supported by the Highways Authority; it would not therefore be reasonable to require this by condition.

## **5.5 Ecology**

- 5.5.1 Paragraph 170 of the NPPF states that '*Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity*'.
- 5.5.2 Strategic LDP policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.5.3 Policy N2 of the LDP which states that '*All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance*'.
- 5.5.4 A Preliminary Ecological Appraisal (PEA) has been submitted which has identified enhancements to the site. The Council's Ecological Advisor has been consulted and advised that no objection is raised to the proposal and the methodology, conclusion and recommendations within the PEA are acceptable. Subject to appropriate conditions it is therefore considered that appropriate mitigation measures that could be put in place to mitigate the likely harm the proposal would cause. The proposal is therefore considered to comply with Policy N2.

## 6. **ANY RELEVANT SITE HISTORY**

- **17/00599/FUL** –Extension to garden centre incorporating new coffee shop, external storage area and rationalization of parking and outbuildings. Approved 13.11.2017.
- **03/01253/FUL** – Extension of retail area of garden centre. Approved 03/02/2004.
- **01/00786/FUL** – Proposed open sided forward extension of the existing glasshouse/retail shop. Approved 22.10.2001.
- **99/00016/FUL** – Proposed erection of 4 poly tunnels. Approved 12.04.1999.
- **98/00887/FUL** – Variation of condition 5 of ref: FUL/MAL/94/0691 to allow the sale of horticultural items produced on the site and imported goods ancillary to the operation of a retail garden centre. Approved 04.01.1999.
- **94/00691/FUL** – Use of land for garden centre incorporating an aquatics centre. Approved 15.11.1994.

## 7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Woodham Mortimer and Hazeleigh Parish Council	<p>Recommend refusal of planning permission for the following reasons:</p> <ul style="list-style-type: none"><li>• Expansion of site would result in further traffic problems at existing access on Bryants Lane.</li><li>• Drainage provision and sewage treatment should be considered.</li><li>• No opening times could mean the establishment is open late leading to light and noise pollution to neighbouring residential properties.</li><li>• Impact of café on established hospitality businesses in area.</li></ul>	Noted

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

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
County Highways	<p>The proposal will utilise the existing access which was extended under planning permission ref 17/00599/FUL.</p> <p>The combined impact of the permitted development under planning application ref: 17/00599/FUL and the proposed development is likely to generate a modest increase in peak hour trips</p>	Noted

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
	<p>compared to its existing use and permitted use. However, the impact on the local highway network capacity is expected to be limited and in no way severe, which is the requirement to recommend refusal on highways grounds under NPPF guidance.</p> <p>The proposal as submitted is therefore not considered detrimental to highway safety, capacity or efficiency, consequently:</p> <p>From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority, subject to relevant conditions.</p>	

### 7.3 Internal Consultees (*summarised*)

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	<p>Having reviewed the submission, it would appear hours of use for the proposal are considered irrelevant as detailed within the application form submitted. This matter was raised by Environmental Health on a previous application of similar nature. To protect the amenity of the close by residential properties, I would recommend that hours of use are appropriately conditioned should the application be successful.</p> <p>No objections subject to conditions relating to hours of use, scheme of ventilation, drainage, external illumination, and refuse storage.</p>	Noted
Ecology – Countryside and Coast	No objection subject to conditions.	Noted
Strategy Team	Supportive of the proposal and the investment into a successful and established local businesses that provide a significant amount of employment in the area. Whilst not an allocated site under Policy E1, the Garden Centre land use is established, and the proposed development is enhancing and utilising land within the existing footprint with the probability of increased employment.	Noted

#### 7.4 Representations received from Interested Parties (*summarised*)

- 7.4.1 **One** letter was received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Transport Statement has deficiencies as it does not account for lorry traffic which will be increased by proposal.	Noted
Existing access not sufficient for articulated lorries. Use alternative entrance on Maldon Road instead.	Noted
Concerns about traffic use of rural lane.	Noted

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

Supporting Comment	Officer Response
The introduction of a cafe, and expansion of garden centre which supports the local community will improve the facilities available to the local residents of Woodham Mortimer.	Noted.
Increased usage of turning will not have significant adverse impact given that it is located off the main road and there is space for waiting vehicles.	Noted
Design should protect rural feel of Woodham Mortimer and trees and bushes should remain adjacent to Oak roundabout.	Noted

- 7.4.3 **One** letter was received **commenting** on the application and summarised as set out in the table below:

Comment	Officer Response
Current garden centre leaves lights on all night, and café expansion will result in an increase in light pollution.	Noted
No opening hours are listed for the stand along café building. There are therefore concerns that the building may operate as a restaurant outside of the opening hours of the garden centre.	Noted
Existing access not wide enough for the passing of two cars.	Noted
Current users of site do not give way to vehicles along Bryants Lane.	Noted
Delivery lorries block Bryans Lane and park along A414 which causes visibility issues and safety concerns for pedestrians and highway users.	Noted
Objection to location of substation due to health concerns.	Noted

## **8. REASONS FOR REFUSAL**

- 1      The development is for a café / restaurant, which is classed as a 'town centre use' outside of an existing town, village or located employment area, which due to its, size and separation from the existing garden centre, together with its operating hours, is not considered ancillary to the wider garden centre use operating at the site. Furthermore, it has not been demonstrated to the satisfaction of the Local Planning Authority that there is a justifiable and functional need for the activity within this rural location and that that it could not have been reasonably located in existing towns, villages or allocated employment areas. Therefore, the development would be contrary to core planning principles and guidance contained in the National Planning Policy Framework, the National Planning Practice Guidance and Policy E4 of the Maldon District Local Development Plan.
- 2      The development, by virtue of its urban design and appearance, and location within the open countryside, would cause substantial harm to the rural character of the site and the surrounding area. The need for the development, particularly in this location, has not been adequately justified as to outweigh the harm on the character and appearance of the area. The development would therefore be unacceptable and contrary to policies S1, S8 and D1 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.
- 3      The proposed development would fail to provide an adequate level of on-site car parking provision. The submitted transport statement is not considered to justify such a significant shortfall in onsite car parking provision. It, therefore, has not been appropriately evidence that the development, would not result in additional on-street parking to the detriment of the free flow of traffic and highway safety, contrary to the adopted Vehicle Parking Standards, policies D1 and T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.

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