

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

DIRECTOR OF STRATEGY,
PERFORMANCE AND
GOVERNANCE
Paul Dodson

31 January 2023

Dear Councillor

You are summoned to attend the meeting of the;

NORTH WESTERN AREA PLANNING COMMITTEE

on **WEDNESDAY 8 FEBRUARY 2023** 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

WEDNESDAY 8 FEBRUARY 2023

1. **Chairman's notices**
 2. **Apologies for Absence**
 3. **Minutes of the last meeting** (Pages 7 - 12)

To confirm the Minutes of the meeting of the Committee held on 11 January 2023, (copy enclosed).
 4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, Other Registrable interests and Non-Registrable Interests relating to items of business on the agenda having regard to paragraph 9 and Appendix B of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).
 5. **21/01276/FUL - Land Opposite St Margaret's Church, Maldon Road, Woodham Mortimer, Essex CM9 6SN** (Pages 13 - 36)

To consider the report of the Director of Service Delivery, (copy enclosed, Members' Update to be circulated)*.
 6. **22/00482/OUT - Golf Driving Range, Burnham Road, Woodham Mortimer** (Pages 37 - 96)

To consider the report of the Director of Service Delivery (copy enclosed, Members' Update to be circulated)*.
 7. **22/01012/FUL - Harmony Kennels, Brook house, Spar Lane, Purleigh** (Pages 97 - 112)

To consider the report of the Director of Service Delivery (copy enclosed, Members' Update to be circulated)*.
 8. **TPO 08/22 - Mill House, Maldon Road, Langford, CM9 4SS** (Pages 113 - 118)

To consider the report of the Director of Service Delivery (copy enclosed, Members' Update to be circulated)*.
 9. **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 - 7.
2. The Committee may consider representation from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to participate is afforded only to those having previously made written representation.
3. Anyone wishing to participate must register by completing [the online form](#) no later than noon on the working day before the Committee meeting.
4. For further information please see the Council's website – www.maldon.gov.uk/committees

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

NOTICES**Recording of Meeting**

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

Fire

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Health and Safety

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Closed-Circuit Televisions (CCTV)

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

BACKGROUND PAPERS

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

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

Development Plans

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

Legislation

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

Supplementary Planning Guidance and Other Advice

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

Supplementary Planning Guidance and Other Advice (continued)

ii) Essex County Council

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

iii) Maldon District Council

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

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

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**MINUTES of
NORTH WESTERN AREA PLANNING COMMITTEE
11 JANUARY 2023**

PRESENT

Vice-Chairman Councillor J V Keyes
(In the Chair)

Councillors M F L Durham, CC, Mrs J L Fleming, CC, S J N Morgan,
R H Siddall and S White

460. CHAIRMAN'S NOTICES

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

461. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors C P Morley, E L Stephens and Mrs M E Thompson.

462. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 30 November 2022 be approved and confirmed.

463. DISCLOSURE OF INTEREST

Councillor S J N Morgan and J V Keyes declared a non-pecuniary interest in Agenda Item 6 as they were both frequent patrons of the farm shop.

464. 22/00499/FUL - LAND REAR OF HAWTHORNS, BRAXTED PARK ROAD, GREAT BRAXTED, ESSEX

Application Number	22/00499/FUL
Location	Land rear of Hawthorns, Braxted Park Road, Great Braxted, Essex.
Proposal	Erection of twelve stables (6 stables for hobby use and 6 stables for commercial use) including tack and hay store incorporating permissive farm rides to connect to highway and bridle network.
Applicant	Mr John and Mr Jim Purdy.
Agent	Mr Russell Ford, Smart Planning
Target Decision Date	21.12.2022
Case Officer	Lisa Greenwood
Parish	GREAT BRAXTED
Reason for Referral to the Committee / Council	Member Call in by Councillor J V Keyes. Policies S1, E1 and D1.

Following the Officer's presentation the Agent, Mrs Alice Quinn, addressed the Committee. The Chairman then opened the discussion.

A debate ensued regarding the issue of change of use. Some Members felt that the application was linked to existing use therefore it did not require a separate change of use application whilst others felt it was a clear change of use from agriculture to equestrian. Officers advised that whilst the principle of the proposal was supported, it was clear it required a change of use application which was a legal change under Planning Law therefore approval of this application could create a precedent resulting in further applications that ignored the legal requirement.

After some further discussion Councillor White proposed that the application be approved contrary to the Officer's recommendation for the reasons that it complied with Policy E4 and would encourage economic growth in the area and this was duly seconded. The Chairman put the proposal to approve contrary to the Officer's recommendation to the Committee and it was carried.

RESOLVED that the application be **APPROVED** for the aforementioned reasons and with standard conditions delegated to Officers in consultation with the Chairperson and Ward Members.

465. 22/00822/FUL - LAWNS FARM, 29 PLAINS ROAD, GREAT TOTHAM, ESSEX, CM9 8DT

Application Number	22/00822/FUL
Location	Lawns Farm, 29 Plains Road, Great Totham, Essex, CM9 8DT
Proposal	Proposed stables, tack room and feed and machinery store building.
Applicant	Mr Thomas Gregan
Agent	Mr Anthony Cussen - Cussen Construction Consultants
Target Decision Date	21.11.2022
Case Officer	Nicola Ward
Parish	PURLEIGH
Reason for Referral to the Committee / Council	Member Call-in by Councillor J V Keyes citing Policy E4 and E6

Following the Officer's presentation the Agent, Mr Tony Cussen, addressed the Committee. The Chairman then opened the discussion.

A brief debate ensued regarding the reasons for refusal of the application. Some Members felt that the only pertinent reason for refusal was around highway safety which was paramount. Councillor White proposed that the application be refused in accordance with the Officer's recommendation but for highway safety reasons only and this was seconded. Councillor Siddall raised concerns around the large scale design and the fact that there was no intrinsic link between the development and the farmhouse. He proposed that the application be refused in accordance with the Officer's recommendation and the reasons as outlined in section 8 of the report namely the bulk and scale together with the highway safety issue. This was duly seconded by Councillor Fleming.

Officers advised that there was no functional link to the site, full justification for the development and use had not been provided and the scale would cause harm to the rural character of the area.

There being no further discussion the Chairman put the first proposal by Councillor White to refuse the development on the grounds of highway safety alone to the Committee and it was carried.

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

1. The standard vehicular visibility splays of 2.4m x 215m required for accesses as measured from and along the nearside carriageway edge, have not been provided. The lack of suitable visibility from the proposed access for both emerging and approaching vehicles would result in an unacceptable degree of hazard to all road users to the detriment of general highway safety contrary to policies D1 and T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.

466. 22/00931/FUL - 9 CHERRY BLOSSOM LANE, COLD NORTON, ESSEX CM3 6JQ

Application Number	22/00931/FUL
Location	9 Cherry Blossom Lane Cold Norton Essex CM3 6JQ
Proposal	Construction of detached three bedroom bungalow with associated vehicular access, hardstanding and landscaping.
Applicant	Mr Penny - Penny Homes Ltd
Agent	Andrew Pipe - Andrew Pipe Associates
Target Decision Date	11.01.2023 (EOT requested until 18.01.2023)
Case Officer	Lisa Greenwood
Parish	COLD NORTON
Reason for Referral to the Committee / Council	Not Delegated to Officers as Departure from Local Plan Member Call-in by Councillor S White citing Policy D1

Following the Officer's presentation the Chairman opened the discussion. A brief debate ensued and the consensus was to approve the application together with an additional condition that Electric Vehicle (EV) charging points be included in the development.

There being no further discussion the Chairman put the Officer's recommendation to approve the application to include EV charging points to the Committee and it was carried.

RESOLVED that the application be **APPROVED** subject to the following conditions and the aforementioned additional condition around EV charging points:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with approved drawings: 22.663 01; 22.663 02 Rev A; 22.663 03 Rev B; 22.663 04 Rev B
3. No works above ground level shall take place until written details of the proposed materials to be used in the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved.
4. No development above slab level shall take place until details of all hard and soft landscape works and means of protecting the existing hedges at the site that are to be retained during the course of development have been submitted to and approved in writing by the local planning authority.
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.

5. No works above ground level shall take place until details of the siting, height, design and materials of the treatment of all boundaries including existing hedging, gates, fences, walls, railings and piers have been submitted to and approved in writing by the local planning authority. The boundary treatment as approved shall be constructed prior to the first occupation of the development to which it relates and be retained as such thereafter.
6. The existing hedgerows and trees along the northern and eastern boundaries of the application site shall be protected during the construction of the development.
7. No development works above ground level shall occur until details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:

1) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.

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

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

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

8. No works above ground level shall take place until details of the foul drainage scheme to serve the development has been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
9. No works above ground level shall take place until details of the number, location and design of bicycle parking facilities/powereds two wheelers shall be submitted to and agreed in writing by the local planning authority and shall be provided in accordance with the approved scheme before any part of the development hereby approved is occupied and retained as such thereafter.
10. Prior to first occupation of the development, the onsite vehicle parking shall be provided as shown on drawing no. 22.663 02 Rev A, including a minimum of two off-street parking space for the dwelling hereby approved. Each parking

space shall have dimensions in accordance with current parking standards. The vehicle parking areas shall be retained in the agreed form at all times.

11. All mitigation and enhancement measures and / or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (ACJ Ecology, November 2022), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

12. Prior to any works above slab level: biodiversity enhancement strategy

A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority.

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

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) Detailed designs or product information descriptions to achieve stated objectives;
- c) Locations, orientations, and heights of proposed enhancement measures by appropriate maps and plants;
- d) Persons responsible for implementing the enhancement measures;
- e) Details of initial aftercare and long-term maintenance (where relevant).

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

13. Prior to occupation: Wildlife sensitive lighting design scheme

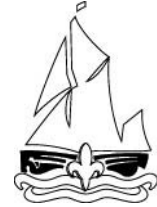
A lighting design scheme for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show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

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

The meeting closed at 8.27 pm.

J V KEYES
CHAIRMAN

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
8 FEBRUARY 2023**

Application Number	21/01276/FUL
Location	Land Opposite St Margaret's Church Maldon Road Woodham Mortimer Essex CM9 6SN
Proposal	Erection of a crematorium with ceremony hall, memorial arboretum and associated use of land, restoration of Coopers Monument, vehicular access, parking, landscaping, pedestrian crossing and diversion of footpath (PROW 269_17)
Applicant	Mr R. Evans - Maldon Fields Ltd
Agent	Mr Julian Sharpe - White & Sons
Target Decision Date	09.12.2022
Case Officer	Hannah Dungate
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Major Application

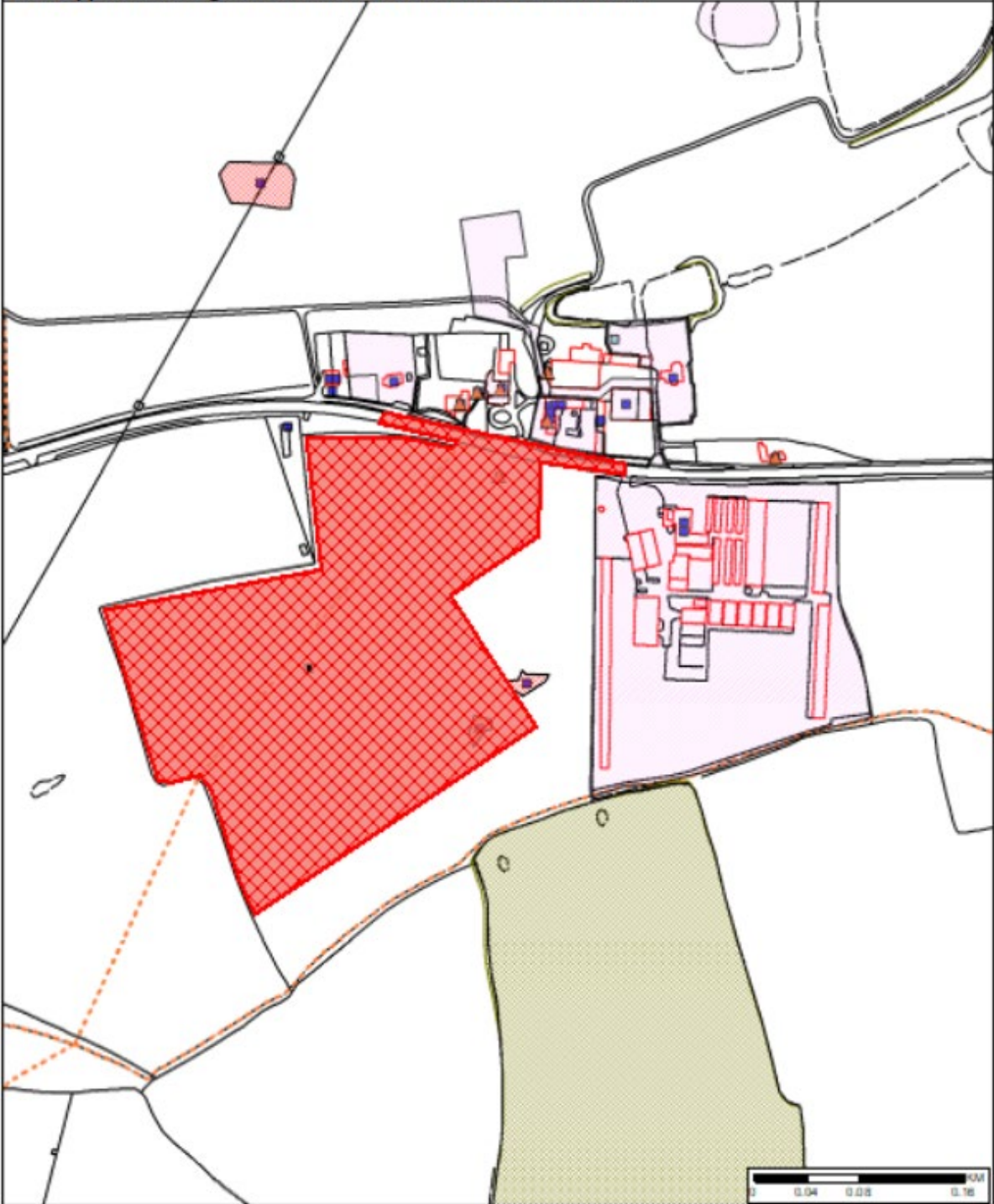
1. **RECOMMENDATION**


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

2. **SITE MAP**

Please see below.

21/01276/FUL
Land Opposite St Margaret's Church Maldon Road Woodham Mortimer



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	Organisation: Maldon District Council	Department: Department
	Comments: Not Set	Date: 14/11/2022
	MSA Number: 100018588	

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the southern side of Maldon Road, which is a main thoroughfare leading from Chelmsford to Maldon, via Danbury and Woodham Mortimer. The application site is located outside of the defined settlement boundary of Woodham Mortimer by approximately one mile within the rural area. The application site is also located approximately two miles west of the settlement of Maldon.
- 3.1.2 The application site is currently open grassland located immediately west of an existing agricultural site used for the growing of seeds. Located on the opposite side of the road, to the north, is an existing farmyard, known as Hall Farm, which has been diversified into a number of mixed uses. The wider surrounding area is open agricultural fields.
- 3.1.3 Within the application site is a Grade II listed Obelisk (also known as the Coopers Monument to William Alexander) located approximately 70 metres south of Woodham Mortimer Hall, which is located on the northern side of the road. A number of other Grade II listed buildings are also located on the northern side of the road, including:
- Church of St Margaret
 - Woodham Mortimer Hall
 - Barn 35 metres south-east of Woodham Mortimer Hall
- 3.1.4 Planning permission is sought for the construction of a crematorium building with ceremonial hall and memorial garden, as well as associated access, parking and landscaping. The proposed access to the site would be taken from the A414 and would include the creation of a new right-hand turn from the A414.
- 3.1.5 The crematorium building would be a part two storey, part single storey building. The main body of the building would be two storeys in height, measuring 9.8m at the ridge, and the single storey element would project to the rear, measuring 7.4m at the ridge. The main body of the building would have a single pitch roof and would measure 27.9m in depth and 11.4m in width. The single storey element at the rear would have a double pitched roof with a central valley and would measure 13.7m in depth and 13.2m in width overall. There would also be two pergolas located alongside the eastern side of the building towards the front and rear. The building would include a ceremonial room, cremator room, lobby area, waiting room, staff room, office and other rooms and facilities associated with the overall running of the building.
- 3.1.6 The crematorium building would be oriented perpendicular to the main road and would be set back by approximately 132m from the main road. To the south of the site would be the arrival garden associated with the crematorium and to the west would be the memorial arboretum. To the east of the building would be the access drive and car parking associated with the building. The access drive taken from the main road would meander through the site in a north-eastern to south-westerly direction and there would be another curved parking area located closer to the main road in the north western corner of the site. Landscaping is also proposed, including a new tree avenue to the south and rear of the existing obelisk. The existing Public Right of Way (PRoW) that currently runs in a north-eastern to south-westerly direction would be diverted so that it would now run along the south-eastern edge of the site.

3.2 Conclusion

- 3.2.1 The principle of the development of the crematorium in this countryside location is considered to be acceptable due to the justified need for a crematorium within the Maldon District. Although the proposal would result in harm to the character and appearance of the countryside, it would be to a minor degree. The justification for a development of this type in this location would off-set the harm identified to the countryside, as a result of the public benefits of the scheme. The proposal would fall at the low end of “less than substantial harm” to the nearby heritage assets, however, it is considered that the benefits would outweigh the minor harm identified to the settings and significance of the nearby listed buildings. The proposal would include the creation of a new right-hand turn along the A414 to access the site, and subject to conditions, there are no objections to this part of the proposal. In addition, there would be sufficient on site parking provision for a development of this size. The proposal would therefore comply with Maldon Local Development Plan (MLDP) policies and the guidance contained within the National Planning Policy Framework (NPPF).

4. MAIN RELEVANT POLICIES

4.1 National Planning Policy Framework (NPPF) 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
- 84-85 Supporting a prosperous rural economy
- 92-97 Promoting healthy and safe communities
- 104-113 Promoting sustainable transport
- 119-123 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 (LDP) 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 & Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D4 Renewable and Low Carbon Energy Generation
- E1 Employment
- E3 Community Services and Facilities
- H4 Effective Use of Land
- I1 Infrastructure and Services
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport

- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide (MDDG) (2017)SPD
- Maldon District Vehicle Parking Standards SPD

5. MAIN CONSIDERATIONS

5.1 Principle of Development – Need for Crematorium

5.1.1 The Council is required to determine planning applications in accordance with its adopted Development Plan unless material considerations indicate otherwise (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 The application site is located outside of the defined settlement boundary for Woodham Mortimer and within a rural location. The Council's spatial strategy is to focus new development within settlement boundaries (Policies S1 and S8 apply).

5.1.3 The NPPF is clear that sustainable development is at the heart of the planning system. The Framework's definition of sustainable development has three interdependent objectives that are mutually dependent upon each other and need to be balanced. These are the economic, social and environmental objectives. This requirement is carried through to local policies via Policy S1 of the approved LDP which emphasises the need for sustainable development.

5.1.4 Policy S8 does allow for some exceptions for development outside of settlement boundaries and states that:

'Planning permission will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon' and provided it is for a number of certain exceptions – one of which states:

'Community services and facilities to meet local need (in accordance with Policy E3).'

5.1.5 Policy E3 states that the Council will seek to retain and enhance the provision of community services and facilities within the District, particularly where they are essential to the local community. Therefore, in order to be acceptable in principle on a rural site outside of the development boundary the Council would have to be satisfied that a local need had been demonstrated.

5.1.6 Furthermore, as far as the need for a countryside location is concerned, the requirements of the Cremation Act 1902 are directly relevant insofar as they stipulate that a crematorium should be at least 200 yards (182.8 metres) from any dwelling and at least 50 yards (45.7 metres) from a public highway. Published Government guidance entitled 'The Siting and Planning of Crematoria' (DoE, 1978) is also of relevance. This document identifies the main principles which should be observed when selecting a site for a new crematorium:

- "i) That the site is well suited for the building, and is accessible to public transport, and, normally, that all main services are available;*
- ii) That the crematorium is so sited that its use does not have any material effect on the immediate neighbourhood;*

iii) *That the layout of the site provides for the easy movement of vehicles to and from the building, and adequate parking space;*
iv) *That the building should be so planned as to allow convenient circulation;*
v) *That proper amenities are provided for those attending or working at the crematorium;*
vi) *That the cremation room and its ancillary rooms and spaces comply with good practices and permit cremation to be carried out in a reverent and dignified manner.”*

- 5.1.7 Given these particular site selection and locational requirements, it is considered to be most unlikely that suitable land would be found within a defined settlement boundary, which would be much closer to existing residential properties and neighbourhoods than the current application site. This approach is supported by a number of appeal decisions for crematoria, including APP/F2415/A/14/2211858 which states *‘Advice on the siting and planning of crematoria is set out in guidance published in 1978... to ‘steer’ crematoriums away from developed areas.’* And that *‘Finding a suitable site in an urban area would be difficult, especially one as large as that proposed in this case, while a location immediately adjacent to a rural settlement presents similar problems.’* In relation to the above requirements, a more recent appeal decision from the one cited above, APP/P3040/W/19/3229908, also states that *‘In practice, this restriction is likely to mean that any proposal for a new crematorium will require a countryside location away from existing settlements.’*
- 5.1.8 In this instance, the proposed crematorium would be sited approximately 132m away from the highway edge to the north and 194m away from the nearest property located on the northern side of Maldon Road. The application site is also located immediately south of two bus stops along Maldon Road which are served by a number of bus services which run frequently between Maldon and Southminster (D1), Maldon and Bradwell-on-Sea (D2), as well as Burnham-on-Crouch and Chelmsford (31; 331; and 332). It can therefore reasonably be concluded that the rural location outside a defined settlement selected for the proposed crematorium would be acceptable in principle, subject to demonstrating the need for the proposed development.
- 5.1.9 The applicant has submitted a number of documents to demonstrate the need for the development, including a number of appeal decisions. The ‘Need for a new crematorium to serve the District of Maldon’ document states that Maldon is currently served predominantly by Chelmsford crematorium, which is stated to be a 40-minute drive from Maldon and above the accepted journey time standard of 30-minutes. The 30-minute journey time has been accepted as standard by a number of appeal decisions which have been submitted with the application including APP/M1005/A/12/2188880 which states that *‘The 30 minute threshold has been used in other crematorium cases as a “rule of thumb.”* As 30 minutes has been accepted as a reasonable upper limit for cortege travel time, it has been demonstrated that there is a qualitative need for a crematorium within the Maldon district, which is closer to access than the nearest crematorium at Chelmsford. The location of the proposed development would be accessible to all of the settlements within the district within this accepted travel time, with the furthest settlement of Bradwell-on-Sea being located 26 minutes away from the site and would therefore meet this qualitative need. It is also noted that two letters from established funeral directors within the Maldon and Chelmsford areas have been submitted in support of the application which corroborate that the crematorium is unable to meet the current demand, which is resulting in significant delays to cremation ceremonies and a poor standard of service for bereaved families.
- 5.1.10 The documents submitted with the application have also stated that there is a quantitative, as well as qualitative, need for a new crematorium within the district as

the nearest crematorium at Chelmsford is stated to be at capacity. As stated within this report, a Quantitative Standard that has been established at appeal (APP/C3430/W/15/3039129, APP/P3040/W/19/3229908, APP/P1805/W/18/3211026, APP/H0520/W/18/3197401) which recognises that a crematorium would be operating above capacity once an existing facility has reached 80% of its practical capacity during a peak month (usually January). It has been advised that at Chelmsford crematorium, there are two chapels used for cremations – South and North Chapel. Based on 2019 figures, it is stated that both chapels at Chelmsford Crematorium were operating at 79% of their practical capacity during a typical month and at 103% during a peak month. In 2020, a higher number of 2205 cremations were held in comparison to 2193 held in 2019. Although no data has been provided from 2021, the Addendum to the original ‘Need’ report states that within the month of April, which is classed as a typical month, that the combined chapel capacity was at 80% (83% for the South Chapel and 75% for the North Chapel, on average). As population rates are set to increase, the applicant has advised that the demand for this existing facility will increase, which is already at capacity. It is therefore considered that a quantitative, as well as qualitative need, for a new crematorium facility within the district has, on balance, been demonstrated as a result of the information provided, in accordance with Policy E3 of the Maldon LDP.

Principle of Development – Loss of Agricultural Land

- 5.1.11 Policy D4, relating to Renewable and Low Carbon Energy Generation, states that *‘Development proposals will be approved where it can be demonstrated, to the Council’s satisfaction, that the development will not have an adverse impact, either individually or cumulatively, on [inter alia]... 7) The best and most versatile agricultural land.’* Although the proposal does not relate to renewable or low carbon energy generation, this point is to highlight that there is a policy requirement to demonstrate that development proposals (and some types of renewable energy proposals i.e. solar farms are carried out in countryside settings including agricultural fields) do not adversely affect the best and most versatile agricultural land. The following therefore sets out how the proposal is considered in this respect.
- 5.1.12 The former Department of Environment Food and Rural Affairs (Ministry of Agriculture, Fisheries and Food (MAFF), 1988) had produced the Agricultural Land Classification (ALC) system of England and Wales to provide a method for assessing the quality of farmland. It enables more informed decisions to be made regarding development. The ALC system grades agricultural land quality from Grade 1 (excellent quality agricultural land, to Grade 5 (very poor-quality agricultural land). Grade 3 (good to moderate quality agricultural land) has been divided into two sub-grades – Sub-Grade 3a (good quality agricultural land) to Sub-Grade 3b (moderate quality agricultural land). The system enables more informed decisions to be made regarding development. The Glossary defines *‘Best and most versatile agricultural land’* as *“Land in grades 1, 2 and 3a of the Agricultural Land Classification.”*
- 5.1.13 Within the ‘Agricultural Land Classification Report’ submitted with the application, the applicant has advised that the grading of the land within the application site is classified as Grade 3 (good to moderate quality) and the land located to the north of Maldon Road classified as Grade 2 (very good quality). Although there is no data for the distinction between the sub-groups for this classification, the applicant has stated that *‘historically low yields and the narrow range of crops suitable for cultivation on the land would indicate that the site is likely to fall in the Sub-grade 3b.’* Although insufficient information has been provided to determine if the land would be classed as Sub-Grade 3a or 3b, it is noted that the applicant has advised that it is considered to be Sub-Grade 3b due to the past limited cropping history, and poor soil types. The Council does not have any alternative evidence to dispute this. The proposed

development would result in the loss of the equivalent of 17.3 acres of the 231 acres (7.4%) of arable farmland currently farmed by Stephen Pemberton. Given that the area of land within the application site is relatively small, in comparison to the remaining farmland available surrounding the application site, and that the land is classified at Grade 3, it is considered that the loss of this land would not be so unfavourable as to result in the refusal of the application when weighing it in the balance.

5.2 Design and Impact on the Character 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 local design standards, 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;

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

5.2.5 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.

5.2.6 As set out within the MDDG (2017), Woodham Mortimer is considered to be an arcadian settlement where properties are generally located within large plots and hidden from public view, nestled in mature tree cover, hedgerow, landscaping, and

structural planting. The MDDG (2017) also states that Arcadian character is derived mostly from the qualities of the surrounding landscape and natural environment. The application site is located within a predominantly countryside location surrounded by open agricultural fields. Opposite the application site is a number of residential properties, with a varied character, and on the east of the site are a number of agricultural buildings associated with Lion Seeds. The application site is relatively large and benefits from tree planting and hedgerows along its site boundaries.

- 5.2.7 The Landscape and Visual Impact Assessment (2021) submitted with the application has stated that the development is predicted to lead to moderate landscape affects, some of which would be beneficial to landscape character and others adverse or harmful to characteristics and qualities. Some of the landscape receptors would have a medium to low sensitivity to change, in comparison to surrounding footpaths which would have a high sensitivity to change. The document advises that mitigation measures are proposed to ensure that the visual changes would have minimal effects. Long range visibility of the site is restricted by higher ground to the north and south. No change to the visual or landscape resource is predicted outside of these areas. In terms of the effects on the site and building design, the submitted scheme has been informed by the LVIA process. In summary, these include the siting of the crematorium building away from the historic building group around Woodham Mortimer Hall and below the skyline; reinstatement of the boundary hedge to the north; reinstatement of an avenue of trees to help integrate the obelisk into its surroundings; Landscape treatment to protect the character of the edge of Parsonage Woods to the south.
- 5.2.8 The proposed crematorium building would be located within the south western corner of the site beyond an existing belt of landscaping along the northern boundary of this part of the site. The remainder of the site to the north west would be a landscaped area containing footpaths, an access drive and a car parking area located immediately to the south of the public highway. Although this area of land is currently relatively open, there is established landscaping along the boundary edges of the site. The land slopes downwards toward the south and the building would be set back from the main road by over 100m. Whilst the proposed development would have a material impact on the character of this part of the rural area, it is located in an area where there is existing development to the north and south of the road. The proposed building is a large structure, but, would have a traditional pitched roof form similar to the appearance of a large barn within the rural area. The building would be partially visible from the main road, but would be sited beyond an existing tree belt that would minimise any harmful visual impacts when viewed from the main road. The Council's Conservation and Heritage Specialist has also advised that the proposed building '*would be relatively low and long in form and located at a position in the field where they would be partly enclosed by established trees and hedges, reducing the degree to which they might feature in important views of or from the nearby listed buildings. The design is, in my view, well considered and sympathetic.*'
- 5.2.9 The proposed development of buildings, an access road, car park and inevitable signage would, to some degree, erode the agrarian setting which presently complements and reinforces the significance of the listed buildings to the north of the site, as well as its countryside setting. It is, however, officers' view that the design of the proposed building would be sympathetic to the character of the surrounding area such that the harm identified would be limited. Given that adequate justification has been received for the proposed development within this rural setting, it is considered that the limited views of the proposals would be offset by the benefits of expanding this type of development within the district, for reasons stated earlier.

- 5.2.10 During the consideration of the application, amended plans have been received to widen the avenue of trees which would be located south of the existing obelisk which is located within the site. This tree avenue would create a more effective framing of the monument from the south and would better reflect the arrangement of the last avenue previously located here.
- 5.2.11 The Council's Conservation and Heritage Specialist has advised that the proposed would fall at the low end of "less than substantial harm", due to the minor degree of harm caused to the significance of the nearby listed buildings, There would be heritage benefits that would weigh in favour of the scheme, include the improvement of the condition of the Grade II listed monument to William Alexander, which is located within the site, and the conservation and repair of the Coopers Monument as has been previously approved under the terms of application ref. 21/01271/LBC.
- 5.2.12 The proposed development would include the provision of large car parking areas. The development of these parking areas can be controlled by condition to ensure that sympathetic materials would be proposed so that the rural setting can be preserved as best of possible. A significant amount of landscaping has been proposed, including a mix of native species which would enhance the setting of the application site within the rural area. The plans show that the existing trees and hedgerows would be retained and infilled with semi-mature trees and native hedge planting. Subject to appropriate conditions, it is considered that these proposals would enhance the setting of the application site.
- 5.2.13 Overall, is considered that although the proposal would result in some level of harm to the character and appearance of the countryside, it would be to a minor degree. The justification received for a development of this type in this location would off-set the harm identified to the countryside, as a result of the public benefits of the scheme. Although the proposed development would be visible from the public footpath that runs through the site, and would be marginally visible from the main road, it is not considered to be a highly prominent feature within the landscape to distract from its character, for the reasons listed above. It is therefore considered that the proposed development would not have a significant or adverse impact on the character and appearance of the area.

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 MDDG (2017).
- 5.3.2 On the northern side of Maldon Road are approximately five properties in a sporadic layout opposite the application site. The proposed crematorium building would be located over 190m away from the nearest dwelling located on the northern side of Maldon Road and would therefore be in line with the requirements of the Cremation Act 1902, for crematoriums to be located over 182m away from any dwelling. There would be no other neighbours affected by the proposal in the nearby vicinity of the application site, to the south, east or west of the site. Although the proposal would result in a material change to the area opposite these dwellings, the building would be sited a sufficient distance away from these neighbours such that any harm caused by the use at this site would be mitigated. Inevitably, there would be an increase in vehicular movements to the site, due to the creation of a new right hand turn on the A414. However, given that these properties are already located on a busy main thoroughfare, the increase in traffic movements at this junction is not considered to cause material harm to these neighbours, in terms of noise pollution.

5.3.3 During the life of the application, further details have been provided, relating to chimney heights as well as dispersion modelling to assess the impact of emissions from the building. These details have been submitted and are considered to be satisfactory. No objections have been received from Environmental Health, and the proposal is therefore consistent with the requirements of Policy D1.

5.4 Access, Parking and Highway Safety

5.4.1 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

5.4.2 The proposal would include the creation of a new right hand turn lane on the A414. The right-hand turn would be located centrally to Maldon Road, and would include a new island for pedestrians crossing Maldon Road, to the west of the entrance to the site. To facilitate the new right-hand turn along Maldon Road, the existing bus stop on the southern side of Maldon Road would be relocated further to the west by the proposed development, as shown on drawing No. 1911011-01 Rev D. This would ensure appropriate visibility from emerging vehicles at the proposed access to the site as well as allow sufficient space for the overtaking of vehicles without impeding on highway traffic and turning vehicles within the right-hand lane. The Highways Authority have been consulted and have advised that they have no objections to the proposal subject to a number of conditions which are included within section 8 of this report.

Trip Generation

5.4.3 The application has been supported by a Transport Assessment which states that the daily vehicle movements to the site would be by staff and visitors. The statement suggests that full time staff would number between 3 and 5 members and staff vehicular movements would be before and after services, between 9am and 10am and 5pm and 6pm respectively. It is stated that the estimated average daily two-way traffic movements for staff would be 10. The statement also suggests that the number of visitors to the site would be, on average, 50 mourners per congregation, travelling in 25 vehicles. The crematorium would be expected to operate on 60-minute time slots, with the average number of funeral services, between 10am and 4pm, being 4 a day. The statement suggests that the movement to and from the site would be spread across the hour and would avoid the highway network peak periods. The number of vehicle movements for visitors during 10am and 4pm would be 200 two-way vehicle movements, occurring outside the peak times on the highway network.

5.4.4 The Statement surmises that the proposed development would not result in any adverse disruption to the free flow of traffic on the local highway network and would therefore be consistent with national and local transportation policies with respect to traffic impact.

5.4.5 The Highways Authority has been consulted and have not provided any adverse comments on the expected increase in traffic generation along this part of Maldon Road. Whilst it is expected that the proposal would generate an increase in trips

along this part of Maldon Road, the impact on the local highway network capacity is not expected to be unacceptably severe, which is the requirement referred to within the NPPF.

- 5.4.6 It is therefore considered that the development would be acceptable in terms of its impact on the local highway network.

Parking

- 5.4.7 Paragraph 11 of The Siting and Planning of Crematoria (TSPC) document, states that *“The size of the car park is to some extent governed by the capacity of the chapel; space for at least one car should be provided for every two places in the chapel.”*
- 5.4.8 The Design and Access Statement submitted states that the chapel is designed to seat approximately 100 people with the lobby space designed to be a flexible space to accommodate larger services of up to 120 people. This would mean that the recommended number of car parking spaces required would be 60.
- 5.4.9 The crematorium would provide 84 car parking spaces and would therefore provide over two thirds of the total seating capacity of the chapel. 50 of these car parking spaces would be provided adjacent to the building, with a further 34 spaces adjacent to the entrance of the site.
- 5.4.10 The development would therefore comply with the minimum standards required for crematoria and there is no objection to the development in this regard.

5.5 Impact on Ecology and Biodiversity

- 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 The proposed development is supported by an Ecological Impact Assessment (EIA) as well as a Priority Farmland Birds Mitigation Strategy (2022). The Council’s Ecological advisor is satisfied that there is sufficient ecological information available for determination of this application. The EIA provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species and habitats and, with appropriate mitigation measures secured, the development can be made acceptable.
- 5.5.5 The mitigation measures identified in the Ecological Impact Assessment (Lizard, November 2021) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats, Dormice, Badgers, reptiles, and nesting birds.

- 5.5.6 A series of minor amendments to the Farmland Bird Mitigation Strategy (Lizard, March 2022) were agreed to ensure that suitable foraging habitat can be created for Skylark on site which will be free from disturbance. Amendments include the removal/relocation of some proposed trees to now be planted outside areas of suitable foraging Skylark habitat, the provision of “dogs-on-leads” signage on the PRow, and the removal/redirection of pedestrian routes (Non-PRow) within the site. These have been confirmed in the updated Figure 1 Farmland Bird Mitigation Plan (Lizard Ecology 20 January 2023) Drawing LLD1855-ECO-FIG-001 Rev 01.
- 5.5.7 It is therefore considered that the LPA now has certainty of the likely impacts of Skylark, a Priority Species. It is recommended that the submission of a finalised Farmland Birds Mitigation Strategy, including these amendments, be secured by condition of any consent.
- 5.5.8 The ecological advisor also states support for the proposed reasonable biodiversity enhancements of bird boxes, log piles bat boxes, invertebrate boxes, and wildlife friendly landscaping, which have been recommended by the Ecological Impact Assessment (Lizard, November 2021) to secure net gains for biodiversity, as outlined under Paragraph 174d of the NPPF (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.
- 5.5.9 In addition, the Ecological Impact Assessment (Lizard, November 2021) states that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts. In summary the following measures will be implemented:
- Light levels should be as low as possible as required to fulfil the lighting need.
 - Warm White lights should be used at <3000k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
 - The provision of motion sensors or timers to avoid the amount of ‘lit-time’ of the proposed lighting.
 - Lights should be designed to prevent horizontal spill e.g., cowls, hoods, reflector skirts or shields.
- 5.5.10 This will enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006. Impacts will be minimised such that the proposal is acceptable, subject to the conditions in section 8 of the report based on BS42020:2013.
- 5.5.11 It is recommended therefore that submission for approval and implementation of the details should be a condition of any planning consent.
- 5.6 Flood Risk and Sustainable Urban Drainage Strategy**
- 5.6.1 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.
- 5.6.2 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*”.

5.6.3 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 and Surface Water Management Strategy, with an addendum,0+ which includes details of how surface water would be managed.

5.6.4 The Lead Local Flood Authority 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. On that basis, no objection is raised in relation to flood risk or management of surface water.

6. ANY RELEVANT SITE HISTORY

6.1 No relevant site history.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Woodham Mortimer & Hazeleigh Parish Council	<p>Although it is recognised such a facility is needed to serve the Dengie area the location at Woodham Mortimer adjacent to a main A road serving Maldon, Chelmsford and connecting areas would substantially increase traffic movements along the already overloaded route. Many residents are already reporting difficulties accessing Maldon Road due to its heavy use and a further exit/entry particularly at times of mass transitions is likely to provide frustrating conditions increasing accident risk and therefore introducing a hazardous situation onto a section of the A414 where traffic is only limited to 50mph. The proposed development site is a green belt area outside of any development boundary also distinguishing the Village of Woodham Mortimer from the town of Maldon and it is considered development would impose a negative impact and urbanisation effect to the rural countryside likely to be followed by further in-fill development applications ultimately merging Woodham Mortimer with Maldon. It is considered the development would be contrary to National Planning Framework policies</p>	<p>Noted. The application site is not located within 'Green Belt' land and as such aspects of this response, in respect of national policy (NPPF and Green Belt Land) is incorrect. There is no designated 'Green Belt' in Maldon District. Policy S8 States that development will only be granted where the intrinsic character and beauty of the Countryside is not adversely impacted upon ...(and subject to a number of identified uses/categories of development.....). This argument is set out in the report.</p> <p>The imposition of a speed limit is outside of the remit of the district authority, and rests with the County. As consultees to this application, ECC Highways have not required a speed limit to this application in assessing that the proposal is acceptable, and they have no objections subject to stated conditions.</p>

Name of Parish / Town Council	Comment	Officer Response
	<p>protecting green belt land and conserving and enhancing the natural environment, and also contrary to Maldon District Councils Local Development Plan Policies S8 and H4 (development boundaries and effective use of land).</p> <p>The Council urges Maldon District Council to conduct their own feasibility study and outline a strategy to construct such a facility themselves in a more suitable location serving the Dengie area, thus delivering a valuable facility as well as financial benefits for Maldon District Council Tax payers.</p> <p>Should the application be approved the Council requests a speed limit of 30mph be implemented on the A414 Maldon Road from its junction with Lodge Road to the old football field/Footpath 14 Woodham Mortimer.</p>	

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Natural England	No comments.	Noted
Essex County Council – Highways Authority	<p>The site is proposed to take access from a new right hand turn lane on the A414. Notwithstanding the details submitted within planning drawing No.1911011-01 Rev D, the running lanes shall be widened to 4 meters either side of the refuge island and widen to 3.25 meters either side of the right-hand turn lane.</p> <p>From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority, subject to conditions.</p>	Noted

<p>Essex County Council – Development and Flood Risk, Waste and Environment</p>	<p>Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we not object to the granting of planning permission subject to conditions.</p>	<p>Noted</p>
<p>Essex County Fire and Rescue Service</p>	<p>Access for Fire Service is considered satisfactory subject to fire brigade access and water supplies for firefighting purposes to the proposed development being fully compliant with Building Regulations Approved Document B, B5. Your attention is drawn to ADB, B5 Section 13. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.</p>	<p>Noted</p>
<p>Place Services – Ecology</p>	<p>No objections to the scheme subject to details agreed and confirmed by condition on any approval for the development.</p>	<p>Noted. Comments in the body of the report</p>
<p>Place Services - Archaeology</p>	<p>There are cropmarks on the site comprising a possible building, square enclosure, field boundaries (EHER 7842). It has also been identified as the possible site of a deserted medieval village associated with Woodham Mortimer Hall and Church complex (EHER 7843). The site is located on the opposite side of the road to the medieval and post-medieval St Margaret’s Church and Woodham Mortimer Hall (EHER 7844-7). There are further sites, including a prehistoric ring-ditch (EHER 8975) and a Roman road (EHER 7940) in the immediate vicinity. 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 the planning consent.</p>	<p>Noted</p>

Anglian Water	Having reviewed the development, there is no connection to the Anglian Water sewers, we therefore have no comments.	Noted
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7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Specialist – Environmental Health	No objection subject to conditions relating to foul and surface water drainage and construction management.	Noted
Specialist – Conservation and Heritage	To use the terminology of policy D3 of the Maldon LDP and chapter 16 of the NPPF, the degree of harm posed by the development to the settings and significance of nearby listed buildings, arising through the erosion of their agrarian wider settings, will fall very much at the low end of the spectrum of “less than substantial harm. In accordance with sections 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Council must have special regard to the desirability of preserving the settings of the affected listed buildings. The low level of “less than substantial harm” must be weighed against the public benefits associated with the proposal, in accordance with paragraph 202 of the NPPF. There are clear public benefits associated with this proposal. Public benefits may include conservation benefits and it seems this scheme presents an opportunity to substantially improve the condition and the setting of the grade II listed monument to William Alexander. Such heritage benefits should weigh in the scheme’s favour. In my view, the heritage benefits posed by the scheme would outweigh the minor harm to the settings and significance of nearby listed buildings.	Noted

Name of Internal Consultee	Comment	Officer Response
	Recommend approval subject to condition relating to the conservation and repair of the Grade II listed Coopers Monument.	
Tree Consultant	No response received at time of writing. Any update will be reported to committee	Noted

7.4 Representations received from Interested Parties

- 7.4.1 12 representations have been received for this application. 4 letters of support have been received, as well as 8 letters of objection. The comments are summarised as follows:

Supporting Comment	Officer Response
Much-needed facility in district. Chelmsford Crematorium is unable to cope with demand and the next nearest facilities are in Basildon and Colchester which are 50-55 minute drive away.	Noted.
Well-researched and presented proposal.	Noted.
Form of building carefully designed and sympathetic to surrounds.	Noted.
Landscaping make location ideal in a beautiful, landscaped setting.	Noted.

Objecting Comment	Officer Response
Concerns over road traffic safety. Disruption of traffic flow and increased car movement. Accidents due to overtaking at bend near to the proposed site entrance. Inappropriate location in the district; impact on local environs; urbanisation and light spillage; devaluation of properties	Noted.

8. **PROPOSED CONDITIONS**

- The development hereby permitted shall begin no later than three years from the date of this decision.
Reason: To comply with Section 91(1) of The Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

20076-LHC-00-00-DR-AR-OS Rev J; 20076-LHC-00-00-DR-L-001 Rev R; 20076-LHC-00-00-DR-AR-0201 Rev B; 20076-LHC-00-00-DR-AR-0401 Rev B; 20076-LHC-00-XX-DR-L-9303 Rev P8; 20076-LHC-00-00-DR-L-9403 Rev P7; 20076-LHC-00-XX-DR-L-9301 Rev P8; 20076-LHC-00-00-DR-AR-0301 Rev B; 20076-LHC-00-XX-DR-L-9401 Rev P7; 1911011-01D; 1911011-02; 1911011-03; 1911011-01C; 1911011-TK03; 1911011-TK04.

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

3. No works above ground level shall take place until written details of the proposed materials to be used in the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved.

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

4. No development above slab level shall take place until details of all hard and soft landscape works and means of protecting the existing hedges at the site that are to be retained during the course of development have been submitted to and approved in writing by the local planning authority.

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: In the interests of the character and appearance of the rural area and highway safety, in accordance with Policies T2, D1, E1 and S8 of the Maldon District Local Development Plan and the NPPF.

5. The existing hedgerows and trees along the northern and eastern boundaries of the application site shall be protected during the construction of the development.

Reason: To protect the character of the area and the natural environment in accordance with the National Planning Policy Framework and Policy D1 and N2 of the approved Maldon District Local Development Plan.

6. Prior to the commencement of the development details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.

Reason: To ensure the adequate provision of drainage to mitigate against pollution in accordance with the National Planning Policy Framework, and policy D2 of the Maldon District Local Development Plan.

7. No means of external illumination of the site shall be installed unless otherwise agreed in writing by the local planning authority by the separate grant of planning permission. All illumination within the site shall be retained as such thereafter.

Reason: To protect the character and appearance of the rural area and the amenity of local residents, in accordance with Policies D1, E1, S8 and D2 of the Maldon District Local Development Plan and the NPPF.

8. Conservation and repair of the grade II listed Coopers Monument, granted listed building consent under application ref. 21/01271/LBC, shall be implemented and completed within two years of the date of the planning permission being granted for application ref. 21/01276/FUL.

Reason: In the interest of the significance of the grade II listed structure in accordance with Policy D3 of the Maldon Local Development Plan, Chapter 16 of the National Planning Policy Framework and Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

9. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
- the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - wheel 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 and Policy T2.
10. 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 155 meters to the west as measured to the centreline and by 133 metres to the east 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 interest of highway safety in accordance with Policy T2.
11. The proposed/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 and in accordance with Policy T2.
12. Notwithstanding the details shown within planning drawings No.1911011-01 Rev D, prior to first occupation of the development, the construction of the new vehicular access to the site and associated highways works shall be regulated by an appropriate legal agreement between the applicant and the Highway Authority which will provide for but not be limited to the following:
- The access shall be no less than 6 metres wide and shall be provided with 8 metre junction radius kerbs with a single footway 2 metres wide footway on the western side of the access.
 - Provision of the ghosted right turn lane on to Maldon Road (A414) and access to the site as shown in principle within drawing No. 1911011-01 Rev D.
 - Provision of 2 x 3.25m wide running carriageway lanes and a 3.5m wide right hand turning lane.
 - Provision of one pedestrian island on Hospital Approach (1.8m refuge with maintaining 2 x 4m running lanes) and to provide uncontrolled crossing points for pedestrians and cyclists as shown.
 - The existing bus stop, kerbing and associated infrastructure located on the south of the Maldon Road carriageway shall be relocated to the west as shown within drawing No. 1911011-01 Rev D.
- Reason: To ensure appropriate vehicular visibility and both vehicular and pedestrian safety on the and adjacent to the public highway in accordance with policy T2 of the Maldon Local Development Plan 2017
13. Prior to occupation of the development, the developer will construct a 2m wide footway on the southern side of Maldon Road (A414) along the western site frontage between the site access and the relocated bus stop, as shown within planning drawing No. 1911011-01 Rev D.
- Reason: To ensure the additional pedestrian traffic generated within the highway as a result of the proposed development in the interest of highway safety in accordance with policy T2. of the Maldon Local Development Plan 2017

14. No development shall be permitted to commence on site until such time as an Order securing the diversion of the existing definitive right of way to a route to be agreed with the Local Planning Authority has been confirmed and the new route has been constructed to the satisfaction of the Local Planning Authority.

Reason: To ensure the continued safe passage of pedestrians on the public right of way and accessibility in accordance with Policies DM1 and DM11 of the Maldon Local Development Plan 2017

15. The public's rights and ease of passage over public footpath no. 17 (Woodham Mortimer) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policy T2. of the Maldon Local Development Plan 2017

16. There shall be no discharge of surface water from the development onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with Policy T2. of the Maldon Local Development Plan 2017

17. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with Policy T2. of the Maldon Local Development Plan 2017

18. The development hereby approved shall not be occupied until such time as the vehicle parking area indicated on planning application drawing number 20076-LHC-00-00-DR-L-0101 has been hard surfaced, sealed and marked out in parking bays. The parking spaces shall have dimensions in accordance with the current parking standards. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy T2. of the Maldon Local Development Plan 2017

19. Prior to first occupation of the development, the cycle parking shall be provided in accordance with the MDC Parking Standards. The approved facility shall be secure, convenient, covered and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy T2. of the Maldon Local Development Plan 2017

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:

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.

- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

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. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site in accordance with Policy T2. of the Maldon Local Development Plan 2017

21. No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.
Reason: The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution in accordance with Policy T2. of the Maldon Local Development Plan 2017
22. Prior to occupation 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

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site in accordance with Policy T2. of the Maldon Local Development Plan 2017

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 Policy T2. of the Maldon Local Development Plan 2017
24. 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 approved Local Development Plan.
25. 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 approved Local Development Plan.
26. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Lizard, November 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.
This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details and retained during the course of the development.
- Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy N2 of the Maldon Local Development Plan 2017
27. A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority before the commencement of works on site.
The content of the Biodiversity Enhancement Strategy shall include the following:
- a) Purpose and conservation objectives for the proposed enhancement measures;
 - b) detailed designs or product descriptions to achieve stated objectives;
 - c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
 - d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - e) persons responsible for implementing the enhancement measures;
 - f) details of initial aftercare and long-term maintenance (where relevant).
- The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter in perpetuity
- Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy N2 of the Maldon Local Development Plan 2017
28. A Landscape and Ecological Management Plan (LEMP) based on the final soft landscaping plan and Figure 1 Farmland Bird Mitigation Plan (Lizard Ecology 20 January 2023) Drawing LLD1855-ECO-FIG-001 Rev 01, shall be submitted to, and be approved in writing by, the local planning authority prior to beneficial use of the development.
The content of the LEMP shall include the following:
- a) Description and evaluation of habitats to be managed including grassland for skylark foraging
 - 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

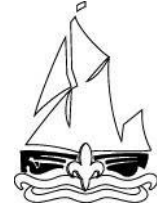
management body(ies) responsible for its delivery. The plan shall also set out how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The development shall be carried and retained/maintained as per the approved details

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) and if any external lighting is to be proposed and in accordance with Policy N2 of the Maldon Local Development Plan 2017

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

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

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy N2 of the Maldon Local Development Plan 2017



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
08 FEBRUARY 2023**

Application Number	22/00482/OUT
Location	Golf Driving Range, Burnham Road, Woodham Mortimer
Proposal	Outline application with all matters reserved for up to 18 dwellings with a provision for affordable housing.
Applicant	Mr Ian Moss
Agent	Mr OToole – Elegant Architectural Ltd
Target Decision Date	10.02.2023
Case Officer	Devan Hearnah
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Member Call In by Councillor M F L Durham Reason: policies H5 (para. 5.37) and H4 Resubmitted to the Committee following consultation with the Monitoring Officer

1. PURPOSE OF REPORT

- 1.1 This report has been prepared with the purpose of providing Members with an update which, in Officers' view, is considered material to the determination of application 22/00482/FUL which members resolved to approve contrary to Officers' recommendation, subject to a S106 agreement with conditions delegated to Officers in consultation with the Chairman, on 05 October 2022. The committee report can be found at **APPENDIX 1**. This report is presented having regard to provisions within the Town and Country Planning Act 1990 (as amended), sec 70(2).
- 1.2 Following advice sought from the Monitoring Officer, Members should note that as this report is an addendum or update to item 22/00482/FUL considered by the North Western Area Planning Committee on 05 October 2022, only the Members who voted on that application at that time are permitted to vote on this item as part of this agenda.

2. APPLICATION HISTORY

- 2.1 The Area Planning Committee, in carrying out the functions of the Local Planning Authority (LPA) (in this case, the determination of a planning application) are bound by the Town and Country Planning Act 1990 as amended, and any relevant subordinate legislation. Members of the Area Planning Committee:
- are required to make decisions having regard to the development plan for the area (the Maldon Local Development Plan 2017 (MLDP)).
 - must have regard to the report of Officers submitted to that Area Planning Committee in carrying out their duty in making a decision on the recommendation in that report, having regard to the policies and any other

matters considered material to that proposal and as set out in the report (the material considerations).

- Members are, however, not bound to follow Officer's recommendations and can give different weight to different aspects as they understand the proposal, having regard to development plan policies and material considerations.

2.2 In this case, Members determined to approve the proposal contrary to the Officer's recommendation on the basis of the policies within the report and the weight they gave to the material considerations set out therein and any other matters that they considered to be material to the proposal. The draft reason for approval states:

'it was previously development land, in a sustainable location, adjacent to existing boundaries with a net gain in biodiversity.'

2.3 The Committee had resolved to approve the application, but at this time a formal decision of the Council, in the form of a decision notice, has not been issued. The decision will not be made, by the Council, until the decision notice has been prepared, signed and issued following due process. In part the intervening time, and due process, is accounted for by confirming the reason for approval and consulting on any conditions proposed with the Chairman of the Area Planning Committee and also agreeing the S106 agreement. Following the Area Planning Committee on 05 October 2022, two appeal decisions (**APPENDIX 2 & 3**) have been received that relate either to the sustainability of Woodham Mortimer as a location for housing (REF: APP/X1545/W/21/3283976) or to the weight to be attributed to previously developed land (REF: APP/X1545/W/21/3285300).

2.4 It is accepted that Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires a planning authority, in dealing with an application, to have regard (among other things) to all 'material considerations. It is incumbent therefore that, any new and relevant material consideration should be fully considered by the 'decision maker' prior to the determination of an application. This includes when additional information is made available in the period between an Area Planning Committee coming to a resolution and the decision notice being issued. This stance is supported in the case of *Kides V. South Cambridgeshire District Council* whereby the Judge provided clarity in regard to section 70(2) of the Town and Country Planning Act 1990, which required a planning authority, in "dealing with" an application, to "have regard to" (among other things) all "material consideration".

2.5 The judge determined that *"dealing with" includes anything done by or on behalf of the planning authority which bears in any way, and whether directly or indirectly, on the application in question. "dealing with" is not limited to the particular acts of the authority in granting or refusing permission. In temporal terms, the first act of a planning authority in "dealing with" an application will be its receipt of the application; and its final act will normally be the issue of the decision notice'.*

2.6 He opined that a consideration is "material", if it is relevant to the question whether the application should be granted or refused; that is to say if it is a factor which, when placed in the decision-maker's scales, would tip the balance to some extent, one way or the other. In other words, it must be a factor which has some weight in the decision-making process, although plainly it may not be determinative. The test must, of course, be an objective one in the sense that the choice of material considerations must be a rational one, and the considerations chosen must be rationally related to land use issues.

2.7 In developing his position, he further stated that 'an authority's duty to "have regard to" material considerations is not to be elevated into a formal requirement that in

every case where a new material consideration arises after the passing of a resolution (in principle) to grant planning permission but before the issue of the decision notice there has to be a specific referral of the application back to committee.'

- 2.8 The above decision provides clear guidelines in relation to where new material considerations arise before the decision notice is issued. Stating '*where the delegated officer who is about to sign the decision notice becomes aware (or ought reasonably to have become aware) of a new material consideration, section 70(2) requires that the authority have regard to that consideration before finally determining the application. In such a situation, therefore, the authority of the delegated officer must be such as to require him to refer the matter back to committee for reconsideration in the light of the new consideration. If he fails to do so, the authority will be in breach of its statutory duty*'.
- 2.9 Taking into account the above, on 19 January 2023 and 20 January 2023 two appeal decisions were issued by the Planning Inspectorate which are considered to be a material consideration of significant weight in the determination of this application. These appeal decisions can be found at **APPENDIX 2** (REF: APP/X1545/W/21/3283976) and **APPENDIX 3** (REF: APP/X1545/W/21/3285300) to this report.

3. KEY POINTS

- 3.1 As detailed within the original Officer report attached at **APPENDIX 1**, application 22/00482/OUT seeks outline planning permission with all matters reserved for the demolition of the existing building and replacement of the driving range and pitch and putt with eighteen dwellings with garages and parking.
- 3.2 Appeal APP/X1545/W/21/3283976 (**APPENDIX 2**) relates to an outline application with all matters reserved, for the erection of one dwelling and a detached car port in Bryants Lane, Woodham Mortimer. It should be noted that like the subject scheme seeking planning permission, the dwelling subject of the appeal at **APPENDIX 2** sought planning permission for residential accommodation outside of the settlement boundaries of Woodham Mortimer. In respect of the appeal at **APPENDIX 3** the Inspector discusses the importance of the reuse of Previously Developed Land.
- 3.3 During the Committee meeting relating to this application Members resolved to approve the development due to the site being previously development land, in a sustainable location, adjacent to the settlement boundaries, with a net gain in biodiversity. It is considered pertinent to note that the following points of the attached appeal decisions which directly relate to the reasons for approval:

APP/X1545/W/21/3283976 – Land adjacent The Willows, Bryants Lane, Woodham Mortimer.

- Point 6 of the appeal decision states: '...the settlement [Woodham Mortimer] is identified in Policy S8 of the Maldon Local Development Plan 2017 (the MLDP) as a 'smaller village. In terms of the settlement hierarchy this is identified as a settlement containing few or no services and facilities, with limited or no access to public transport and very limited or no employment opportunities. In this context Woodham Mortimer is not identified as one of the more sustainable locations to deliver housing to meet local needs.' Just like the dwellings subject of this application, the closest settlement boundary to the appeal scheme is Woodham Mortimer. The Inspector concluded that

Woodham Mortimer is not one of the more sustainable locations to deliver housing to meet local needs. This was considered by the Inspector in the context of one house. Therefore, the impacts in respect of 18 dwellings and the number of people who will be reliant on private transport will have materially greater impacts than the appeal scheme.

- Point 7 of the appeal decision states: *'... there is a public house, village hall and playing field in the village but these are some distance from the appeal site and would involve crossing the A414 which is a busy road with fast flowing traffic. There are also bus stops on the A414 to the south of the appeal site. I noted there is no shelter for westbound buses which would limit the attractiveness of using buses in this direction. Moreover, there is no safe, lit pedestrian footway along Bryants Lane to reach these bus stops, no lighting on the A414 and no continuous safe footway via Conduit Lane into the main village area of Woodham Mortimer. Given the limited services in Woodham Mortimer and the lack of footways and nature of bus infrastructure I find that future occupancy of the proposed dwelling would be highly reliant on use of the motor car. This would be contrary to securing a sustainable pattern of development in the district and the need to transition to a low carbon future.'*

The occupiers of the units proposed as part of this application would also be required to cross the A414 for eastbound bus services and there is still no shelter on the western bound bus stop. Likewise, as the Inspector has noted there would be no lighting on the A414 for anyone wishing to use this service. In addition, the Inspector has recognised that Conduit Lane does not provide a continuous safe footway. Therefore, whilst it was put forward by the Applicant as part of the application that the bus stops on the A414 and Post Office Road, accessed via Conduit Lane, could be utilised by the future occupiers, it is clear from the Inspector's findings that the lack of footways and lighting would act as deterrents to using the local bus service. Although the application site subject of this report is located in a different location to the appeal site, the concerns raised and discussed by the Inspector in respect of the bus stops, footpaths, roadways and access to the main facilities such as the Public House, are applicable to this proposal and are material to the consideration of this application.

- Point 8 of the appeal decision states: *'I therefore conclude that the appeal proposed would not be sustainably located.'* Although the application site is located closer to the settlement boundaries than the appeal scheme, (approximately 175m vs abutting the settlement boundary) the same concerns in respect of accessibility to sustainable forms of transport and the service and facilities within the settlement boundaries, as discussed above, apply. Furthermore, the Inspector's conclusion in respect of the sustainability of the site's location relates to the lack of services and facilities provided within the village of Woodham Mortimer itself, determining that the village is not one of the most sustainable villages for residential development. This is equally as applicable to the application subject of this report.
- Point 20 of the appeal decision states: *'The LPA accepts that it currently cannot demonstrate a five year supply of deliverable housing land...Consequently having regard to the NPPF paragraph 11d), Policies S1 and S8 as most relevant policies for determining the proposal are out-of-date because the spatial strategy is not delivering the required housing need. In*

such there is a presumption to grant planning permission subject to the approach at NPPF paragraphs 11d) i) and ii).' This point remains valid as part of this application as the Council are still unable to demonstrate a Five Year Housing Supply (5YHS).

- Point 23 of the appeal decision states: *'Whilst I have found that Policies S1 and S8 are out-of-date that does not mean they are of no weight.'* The need to carefully manage and limit the number of new homes in locations with relatively few sustainability credentials remains valid in the context of the environmental objectives of national and local planning policy and so I afford the harm arising from the conflict with Policies S1 and S8 significant weight. This point is relevant to this application in that it identifies that the location and accessibility of a site still warrants significant weight in the planning balance regardless of the trigger for the 'presumption in favour of sustainable development'.

APP/X1545/W/21/3285300 – Knightswood Centre, Steeple Road, Southminster

- Point 29 of the appeal decision states: *'The main parties agree this to be a brownfield site and consequently its reuse meets the objectives of paragraph 119 of the Framework relating to the efficient use of land.'* The application site is similar in that it represents brownfield land and therefore the proposal would meet the objectives of paragraph 119 of the NPPF in that respect.

4. CONCLUSION

4.1 All resolutions for planning applications should be based on evidence. As case law has shown (*Stringer v Minister of Housing and Local Government*) the remit for what can be a material consideration is extensive. However, (*Tesco caselaw*) is also a basic point of planning law that the weight to be attributed to a material consideration is up to the decision-maker as long as it is not 'Wednesbury Unreasonable'. Case law also sets out the principle and considerations to be taken into account when new material is presented following a resolution to approve and before the issuing of a decision notice, and the requirement of what is incumbent on the LPA to have regard to this information where it considers it is material to do so. The above-mentioned appeal decision at *Woodham Mortimer (APP/X1545/W/21/3283976)* provides a material consideration that should be afforded significant weight in the determination of this application. It is considered to provide further justification for the refusal of this application in line with the Officers' recommended first reason for refusal as found below:

4.2 *'The application site is in an unsustainable and rural location and remote from essential support facilities and community services; is inaccessible by a range of transport modes and is located where the need to travel would be maximised and the use of sustainable transport modes would be minimised and would therefore represent an unsustainable form of development, failing in relation to the social strand of sustainability. Therefore, the proposal conflicts with the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8 and T2 of the Maldon District Local Development Plan. '*

4.3 The appeal decision at Southminster (*APP/X1545/W/21/3285300*) is also a material consideration in the determination of this application as it further acknowledges the need to support the reuse of brownfield land. However, given the weight attributed to the need for housing to be sustainably located by the Inspector in the *Woodham*

Mortimer decision and the direct comparisons to be made between the locations of that site and this application, it is not considered that the reuse of Previously Developed Land would significantly and demonstrably outweigh the harm in respect of the site's location.

4.4 Should Members be minded to approve the application subject to a S106 agreement, the following conditions are recommended:

- 1 Details of the appearance, access, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the LPA before any development begins and the development shall be carried out as approved.

Application(s) for approval of the reserved matters shall be made to the LPA no later than three years from the date of this permission.

The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.

REASON: To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).

- 2 As part of the reserved matters 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 LPA. The screening as approved shall be constructed prior to the first use/occupation of the development to which it relates and be retained in perpetuity as such thereafter.

REASON: To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Local Development Plan.

- 3 The landscaping details referred to in Condition1 shall provide full details and specifications of both hard and soft landscape works which shall be submitted to and approved in writing by the LPA. Such details shall be submitted concurrently with the other reserved matters. These landscaping details shall include the layout of the hard landscaped areas with the materials and finishes to be used together with details of the means of enclosure, car parking layout, vehicle and pedestrian accesses.

All of the hedgerow boundaries, shall be retained and maintained at all times thereafter, unless otherwise agreed with the LPA.

The details of the soft landscape works shall include schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers / densities and details of the planting scheme's implementation, aftercare and maintenance programme.

The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the LPA.

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the LPA. 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, destroyed, dies, or becomes, in the opinion of the LPA, 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 LPA gives its written consent to any variation.

REASON: To ensure that protected species are not harmed during the course of development and that the details of the development are satisfactory and in the interest of the visual amenity of the area, in accordance with policy D1 of the Maldon District Development Local Plan and the guidance contained in the Maldon District Design Guide (MDDG) SPD.

4 The scheme to be submitted pursuant to the reserved matters shall make provision for car parking for the residential element within the site in accordance with the Council's adopted parking standards at the time of submission. Prior to the occupation of the development the parking areas shall be constructed, surfaced, laid out and made available for such purposes in accordance with the approved scheme and retained as such thereafter.

REASON: To ensure appropriate parking is provided in accordance with Policies T1 and T2 of the Maldon District Development Local Plan and the Council's adopted Vehicle Parking Standards (2018).

5 The height of the buildings submitted as part of the Reserved Matters shall not be in excess of 9m.

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

6 The dwelling mix for the development hereby approved shall accord with the housing mix requirement set out within the Maldon District Local Housing Needs Assessment 2021.

REASON: In order to ensure that an appropriate housing mix is provided for the proposed development taking in to account the objective of creating sustainable, mixed community in accordance with Policy H2 of the Maldon District Development Local Plan and the guidance contained in the NPPF.

7 The development hereby approved shall be carried out in a manner to ensure that a minimum of 80% of the dwellings, in all tenures, should meet the M4(2) 'accessible and adaptable dwellings' standards.

REASON: In order to ensure that an appropriate housing mix is provided for the proposed development taking in to account the objective of creating sustainable, mixed community in accordance with Policy H2 of the Maldon District Development Local Plan and the guidance contained in the NPPF.

8 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 LPA. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

REASON: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety in accordance with policies D1 and T2 of the Maldon District Development Local Plan.

9 A scheme in accordance with Maldon District Council's (MDC) adopted standards for cycle parking shall be submitted to, and approved in writing by, the LPA. The cycle parking, as approved, shall be provided prior to the beneficial occupation of the development hereby approved. The approved facilities shall be used for no other purposes and retained 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 Development Local Plan.

- 10 Prior to the commencement of development a Biodiversity Net Gain Strategy setting out how the development shall result in a minimum biodiversity net gain of 10% shall be submitted to and approved in writing by the LPA.

The Biodiversity Net Gain Strategy shall be implemented in accordance with the approved details, and in accordance with a timetable agreed as part of the strategy, and shall be retained in that manner thereafter.

REASON: To enhance protected and Priority species & habitats in accordance with Policy N2 and to allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

- 11 A Waste Management Plan shall be submitted to as part of the reserved matters application(s).

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 Development Local Plan and the provision and guidance as contained within the MDDG.

- 12 A strategy to facilitate superfast broadband for future occupants of the residential buildings shall be submitted to and approved in writing by the LPA.

The strategy shall seek to ensure that upon occupation of a dwelling ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway, unless evidence is put forward and agreed in writing by the LPA that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure.

The development of the site shall be carried out in accordance with the approved strategy and retained in perpetuity.

REASON: In order to ensure that suitable infrastructure is provided at the site for the benefit of future occupiers, in accordance with policy I1 of the Approved Maldon District Development Local Plan and the NPPF and PPG.

- 13 Prior to agreement of reserved matters relating to site layout, a noise assessment detailing the noise environment across the site, in relation to BS8233:2014 will be submitted and approved. The noise assessment will include details, where identified as necessary, of any identified mitigation measures. The internal ambient noise level shall not exceed the guideline values in BS8233:2014 Table 4. For external areas that are used for amenity space, such as gardens and patios, the external noise level shall not exceed 55 dB LAeq,T, as indicated in BS8233:2014 paragraph 7.7.3.2. Only the approved scheme shall be implemented and maintained in the approved form thereafter.

REASON: In the interests of neighbouring amenity and the living conditions of the future occupiers in accordance with Policies S1, D1 and H4 of the Maldon District Development Local Plan.

- 14 Prior to the commencement of the development details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development and retained thereafter.

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

- 15 Notwithstanding the details submitted with this application, no development shall commence, other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of

underground tanks and old structures, and any construction until an investigation and risk assessment has been submitted to and approved in writing by the LPA. The risk assessment shall assess the nature and extent of any contamination on the site whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:

- (i) a survey of extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - o Human health,
 - o Properly (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o Adjoining land,
 - o Groundwaters and surface waters,
 - o Ecological systems
 - o Archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the LPA.

REASON: To understand the nature and extent of contamination in accordance with Policy D2 of the approved Maldon District Development Local Plan.

- 16 Where identified as necessary in accordance with the requirements of condition 15 no development shall commence, other than where necessary to carry out additional investigation, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The development hereby permitted shall not commence until the measures set out in the approved scheme have been implemented, unless otherwise agreed in writing by the LPA. The LPA may give approval for the commencement of development prior to the completion of the remedial measures when it is deemed necessary to do so in order to complete the agreed remediation scheme. The LPA must be given two weeks written notification of commencement of the remediation scheme works.

This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the LPA.

REASON: To ensure that contamination does not pose a risk to human health in accordance with Policy D2 of the Maldon District Development Local Plan

- 17 The remediation works shall be carried out prior to commencement of the development unless where commencement is required to carry out

remediation. The approved remediation scheme must be carried out in accordance with the details approved unless otherwise agreed in writing by the LPA.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced. This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the LPA.

- 18 REASON: To prevent the undue contamination of the site in accordance with Policy D2 of the Maldon District Development Local Plan
- Should the existence of any contaminated ground or groundwater and/or hazardous soil gases be found that were not previously identified or not considered in a scheme agreed in writing with the LPA, it must be reported in writing immediately and a risk assessment of the site shall be undertaken and a scheme to bring the site to a suitable condition shall be submitted to and agreed in writing with the LPA. A "suitable condition" means one in that represents an acceptable risk to human health, the water environment, property and ecosystems and scheduled ancient monuments and cannot be determined as contaminated land under Part 2A of the Environmental Protection Act 1990 now or in the future.

The work will be undertaken by a competent person in accordance with DEFRA

and the Environment Agency's 'Model Procedures for the Management of Land Contamination (CLR 11), the Essex Contaminated Land Consortium's Land Contamination Technical Guidance For Applicants and Developers and current UK best-practice guidance and policy.

- 19 REASON: To ensure that contamination does not pose a risk to human health in accordance with Policy D2 of the Maldon District Development Local Plan
- 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 LPA 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.

- 20 REASON: To protect the site, which is of archaeological interest, in accordance with policy D3 of the Maldon District Development Local Plan.
- 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 LPA. The development shall be carried out in a manner that accommodates the approved programme of archaeological work.

- 21 REASON: To protect the site, which is of archaeological interest, in accordance with policy D3 of the Maldon District Development Local Plan.
- No development shall commence until information has been submitted and approved in writing by the LPA 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 LPA. The tree protection measures shall be carried out in accordance with the approved detail.

REASON: To ensure that appropriate tree protection and management is in place in the interests of ecology and the character and appearance of the area in accordance with Policies S1, D2 and N2 of the MDLDP 2014

22

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 LPA. 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.
- Limiting discharge rates to 1l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party/ All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

REASON: To avoid the risk of water flooding and pollution in accordance with policy D2 of the MDLDP.

- 23 No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the LPA. The scheme shall subsequently be implemented as approved and retained thereafter.

REASON: To avoid the risk of water flooding and pollution in accordance with policy D2 of the MDLDP.

- 24 Prior to occupation 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 LPA, and retained thereafter.

Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.

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

- 25 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 LPA in perpetuity.

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

- 26 Prior to the submission of the Reserved Matters a comprehensive ecological survey of the site shall have been undertaken to ascertain if any protected or priority species are present. The results of the survey shall be submitted to and approved in writing by the local planning authority along with details of the provision and implementation of ecological mitigation to protect any protected species if found to be present. The development shall be carried out and completed in accordance with the approved mitigation scheme and retained thereafter.

REASON: In the interests of protected and priority species in accordance with Policy D2 of the Maldon District Development Local Plan.

- 27 Prior to the first occupation of any dwelling hereby approved the use of the land and existing building for the sale of gas bottles, a golf driving range and pitch and putt course shall cease.

REASON: To ensure that the development is carried out as approved.

- 28 Prior the first occupation of any dwelling hereby approved the existing building on site shall be demolished.

REASON: To ensure that the development is carried out as approved.



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

**to
NORTH WESTERN AREA PLANNING COMMITTEE
5 OCTOBER 2022**

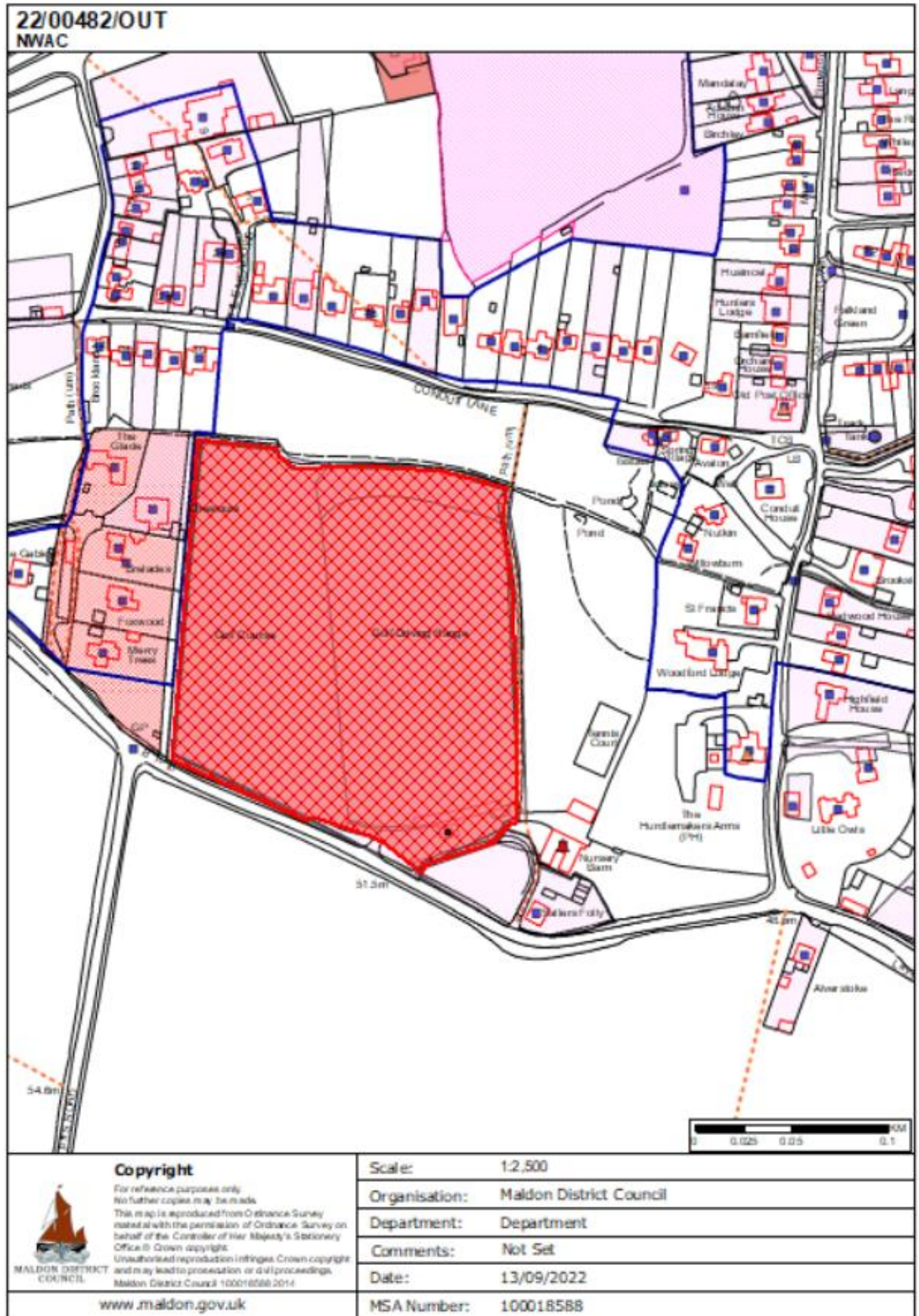
Application Number	22/00482/OUT
Location	Golf Driving Range, Burnham Road, Woodham Mortimer
Proposal	Outline application with all matters reserved for up to 18 dwellings with a provision for affordable housing.
Applicant	Mr Ian Moss
Agent	Mr OToole – Elegant Architectural Ltd
Target Decision Date	12.10.2022
Case Officer	Devan Hearnah
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Member Call in by Councillor M F L Durham Policies H5 (para 5.37) and H4

1. RECOMMENDATION

REFUSE subject to the reasons set out in section 8.

2. SITE MAP

Please see below.



3. SUMMARY**3.1 Proposal / brief overview, including any relevant background information**Application site

- 3.1.1 The application site is a parcel of land amounting to 3.4 hectares in size. The site is currently used as a golf driving range, pitch, and putt course, together with the sales of bottled gas. A single storey building occupies the site, which is used as a reception area and for the sale of the gas bottles, and thirteen covered driving bays. The remainder of the site is laid to grass and is surrounded by netting, trees, and hedgerow.
- 3.1.2 The site is located on the northern side of Burnham Road in a rural location outside but adjacent to the settlement boundary of Woodham Mortimer. The east and western boundaries of the site abut residential development and open and undeveloped land lie to the north and south (opposite) of the site. A public footpath, which runs in a north to south direction, is located along the entire eastern boundary of the site.
- 3.1.3 The application site is accessed via Burnham Road. The access to the site serves two existing dwellings to the east of the site 'Nursery Barn' and 'Salters Folly', which is a grade II* listed building.

Proposal

- 3.1.4 Outline planning permission with all matters reserved is sought for the demolition of the building and replacement of the driving range and pitch and putt with eighteen new detached dwellings with garages and parking. The housing mix is stated to form a consideration for Reserved Matters, but the Design and Access Statement (DAS) states that there will be a mix of two, three and four-bedroom dwellings, with eight of the eighteen to be provided as affordable units (44.4%).
- 3.1.5 Although outline in nature, an indicative layout plan has been submitted with the application. The plan shows the residential development sited predominantly on the western side of the site, with some dwellings located within the northeast and an area of public open space sited within the south/southeast. The dwellings are shown in a ribbon style of development along three access roads, with the exception of two of the plots (4 and 5) which would be accessed off of private driveways on the western side of the access road, within the southern part of the site, facing south. Three more dwellings would be located further north on the western side of the access route. Plots 6-11 would be sited within the most western part of the site and plots 12 to 18 would face south within the most northerly section of the site. To the rear of those would be a Sustainable Drainage feature (SuDS). Within the northwest corner of the site would be a Treatment Plant.
- 3.1.6 The indicative layout plan shows that additional tree planting will be provided to the boundaries of the site and there is planting proposed within the site itself, including within the public open space. However, the Tree Constraints Plan shows that a number of trees and tree groups will be required to be removed from within the site itself, particularly within the western parcel.
- 3.1.7 The application is supported by a Planning Statement, stating that 40% of the proposed development would be affordable housing (amounting to 10 dwellings) or

alternatively a commuted sum (developer contribution) of an amount to be agreed for any proportion or for the entire amount of affordable housing.

Background Information

- 3.1.8 The application forms a resubmission following the refusal of application reference 21/00693/OUT, which proposed outline planning permission with the matter of access for consideration or the demolition of the building and replacement of the driving range and pitch & putt with up to 25 new one and two-bedroom single storey dwellings and public open space with an equipped play area. The application was refused for the following reasons:
1. The application site is in an unsustainable and rural location and remote from essential support facilities and community services; is inaccessible by a range of transport modes and is located where the need to travel would be maximised and the use of sustainable transport modes would be minimised and would therefore represent an unsustainable form of development, failing in relation to the social strand of sustainability. Therefore, the proposal conflicts with the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8 and T2 of the Maldon District Local Development Plan.
 2. The proposed development would fundamentally alter the open character of the south western edge of the village. The provision of twenty-five unjustified residential dwellings on this site currently used as golf driving range / pitch and putt would fail to provide visual enhancement to the wider rural locality, representing the encroachment of built form into the rural site and sprawl of development into the countryside. The layout of the access road is in stark contrast to the existing development within Woodham Mortimer and is considered to contribute to the harm of the proposal. Therefore, the proposal fails on the environmental stand of sustainability, in conflict the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8, D1, and H4 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework
 3. The proposed residential development would result in the unjustified loss of an employment use, community facility, tourism facility and sports and leisure facility. It has not been satisfactorily justified or evidenced that the sites present use significantly harms the character and amenity of the area, the proposed use would be a greater benefit to the community, or that the site has been marketed for sale or rent and that there is a confirmed lack of interest. Further, it has not been demonstrated that the existing use is no longer viable, that there will be no significant loss of tourism facilities or that the land is surplus to requirements to meet local need or that alternative provision in the locality can meet the needs. Therefore, the proposal conflicts with policies E1, E3, E5 and N3 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.

4. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the development makes no contribution for affordable housing to meet the identified need in the locality, the necessary financial contribution towards Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy and NHS services, the management and maintenance of the public open space and would fail to secure the provision of residential travel packs for sustainable modes of transport, required for the future occupiers of the site contrary to Policies S1, D1, H1 and I1 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.
- 3.1.9 It is also relevant to note that there was an application which was also refused, prior to the previous submission (20/00675/OUT), which was refused for similar reasons to the above. Prior to this application 17/00286/OUT was also refused in June 2017. That application proposed to demolish the existing building, cease the driving range and pitch and putt uses and erect eight two-storey detached dwellinghouses across the site. The application was refused for two reasons and was decided at a time when the current Local Development Plan (LDP) was at a draft stage, prior to its approval. The two reasons for refusal in respect of that application were:
1. *'The application site is in a rural location outside of the defined settlement boundary for Woodham Mortimer where policies of restraint apply. The Council can demonstrate a five-year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Local Development Plan to meet the objectively assessed needs for housing in the District. The proposed development would fundamentally alter the open character of the south western edge of the village. The provision of eight residential dwellings on this site currently used as golf driving range / pitch and putt would fail to protect or enhance the tranquillity, amenity, and traditional quality of the rural area by introducing unacceptable built form into a site that currently contributes to, the rural quality of the area. Further, the site is located in an unsustainable location and therefore, the construction of new dwellings located some distance away from community services and essential support facilities, and inaccessible by a range of transport would mean that the future occupiers of the site would be heavily reliant on the use of private cars. The proposal would be contrary to policies S1, H1, T1, T2, BE1, CC6 of the adopted Maldon District Replacement Local Plan; policies S1, S8, T1, T2, D1, H4 of the Maldon District Local Development Plan; and the core planning principles and Government advice contained within the National Planning Policy Framework.'*
 2. *The proposed residential development would result in the loss of employment land and tourism provision which is currently in use. No justification or evidence has been provided for the loss of this land by way of evidence that the existing use demonstrably harms the character and appearance of the area, the proposed use would be of greater benefit to the community, or that the site has been marketed for sale or rent and that there is a confirmed lack of interest. The development proposal would therefore have an adverse impact on the limited supply of employment generating land, contrary to policy e6 of the adopted Maldon district replacement local plan, policies e1 and e5 of the Maldon district local development plan, and government.'*

3.1.10 The main changes to the scheme when compared to the previously refused scheme (21/00693/OUT) are as follows:

- The number of dwellings proposed has reduced from 25 to 18.
- Access no longer forms a matter for consideration
- The indicative layout has been amended.
- An updated Planning Statement has been submitted, the content of which is discussed in this report.
- The proposal no longer provides specific reference to bungalows.

3.2 Conclusion

- 3.2.1 This application represents a re-submission following the refusal of application 21/00693/OUT. The amendments to the scheme are detailed within paragraph 3.1.10. Having taken all the material planning considerations into account, it is not considered that the changes to the scheme have overcome the previous concerns raised.
- 3.2.2 The application site is located in an unsustainable location where future occupiers of the proposed dwellings would be heavily reliant on motor vehicle transport, contrary to the National Planning Policy Framework's (NPPF) "presumption of sustainable development" and policies S1, S8 and T2 of the LDP.
- 3.2.3 Further to the above, the proposed development would fundamentally alter the open character of the south western edge of the village. The provision of eighteen unjustified residential dwellings on this site currently used as a golf driving range / pitch and putt would fail to provide visual enhancement to the wider rural locality, representing the encroachment of built form into the rural site and sprawl of development into the open countryside. The layout of the access road is in stark contrast to the existing development within Woodham Mortimer and is considered to contribute to the harm of the proposal. Therefore, the proposal would fail to comply with policies S8, D1 and H4 of the Maldon District Local Development Plan (MDLDP).
- 3.2.4 The proposed residential development would also result in the unjustified loss of an employment use, community facility, tourism facility and sports and leisure facility. It has not been satisfactorily justified or evidenced that the loss of the important and beneficial current use complies with the criteria set out in policies E1, E3, E5 and N3 of the MDLDP.
- 3.2.5 Lastly, in the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 the development makes no contribution for affordable housing, the necessary financial contribution towards Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) and National Health Services, the management and maintenance of the public open space and would fail to secure the provision of residential travel packs for sustainable modes of transport, required for future occupiers of the site.
- 3.2.6 Whilst it is noted that there are some benefits arising from the scheme, it is not considered that those benefits would be sufficient to outweigh objections highlighted above.

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
- 84- 85 Supporting a prosperous rural economy
- 92 – 103 Promoting healthy and safe communities

- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 152 – 169 Meeting the challenge of climate change, flooding and coastal change
- 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
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D5 Flood Risk and Coastal Management
- E1 Employment
- E2 Retail Provision
- E3 Community Services and Facilities
- E5 Tourism
- H1 Affordable Housing
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- N3 Open Space
- I1 Infrastructure and Services
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD (VPS)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The Council is required to determine planning applications in accordance with its adopted Development Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990).

5.1.2 The previously refused applications 21/00693/OUT, 20/00675/OUT and 17/00286/OUT were refused in part based on the unsustainable location of the site which would result in the future occupiers of the dwelling being heavily reliant on the use of private cars. When the most recent previous application was refused the Council could not demonstrate a Five-Year Housing Land Supply. This still remains the case in the consideration of this application.

5.1.3 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).

- 5.1.4 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 8 of the NPPF which states:

“For decision taking this means:

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

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

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

Footnote 8 - 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 74)

- 5.1.5 At the heart of the NPPF is a presumption in favour of sustainable development (the 'presumption') which is central to the policy approach in the Framework, as it sets out the Government's policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces those Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5-year housing land supply cannot be demonstrated (*Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC* [2017] UKSC 37).
- 5.1.6 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'.
- 5.1.7 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.
- 5.1.8 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.

5.1.9 Paragraph 79 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.'

5.1.10 Planning permission is sought for the construction of eighteen dwellings outside of the settlement boundary of Woodham Mortimer. Woodham Mortimer is a village classified as a 'Smaller Village' within the district which is described within policy S8 of the LDP as a 'defined settlements containing few or no services and facilities, with limited or no access to public transport, very limited or no employment opportunities.'

5.1.11 As part of the previous application, it was considered that in social terms, the development should assist in supporting a strong vibrant and healthy community. Whilst the site is in close proximity to the development boundary, it was not considered to be within an accessible location and strong concerns were raised in this respect.

5.1.12 It was noted that there are no shops, services or bus stops readily available within the immediate surrounding area. The closest bus stop was noted to be around 0.4 miles from the application site walking via the public footpath, which was found to be the only safe route from the application site. The bus stop, which is located on Conduit Lane is serviced by the D1 and D2 buses said to provide an extremely limited service to Maldon and Mayland. Whilst regard was had to the public footpath along the eastern boundary of the site which links to the village, it was noted that Woodham Mortimer provides an extremely limited level of facilities and services. Therefore, it was considered that the proposed development was located away from community services and essential support facilities, and inaccessible by a range of transport resulting in the future occupiers of the site being heavily reliant on the use of private cars. The accessibility credentials of the site were considered to weigh heavily against the proposal.

5.1.13 The Planning Statement submitted as part of that application highlighted that the site is located adjacent to the defined settlement boundary of Woodham Mortimer. However, this was not considered to carry significant weight given the assessment above, which set out the poor accessibility credentials of the site and that the Council's approved policies carry less weight at present due to the lack of a 5YHLS, including policy S8 'Settlement Boundaries and Countryside', a full assessment had been carried out in respect of the accessibility credentials of the site and the fact it is in close proximity to the settlement boundary carried limited weight. The Statement went on to highlight that Danbury is located 2km away and is accessible by bus. However, it was considered that the site is removed from public transport options and a distant and unsafe walk from the bus stops in the area.

- 5.1.14 The report had regard to paragraph 105 of the NPPF which states that “The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.” Overall, it was considered that the future occupiers would be heavily reliant on the use of private motor vehicles and the proposal would also fail to accord with Policy T2 of the LDP or the presumption in favour of sustainable development contained within the NPPF.
- 5.1.15 As part of this application an updated Planning Statement titled as the Design and Access Statement has been submitted, trying to address these concerns raised. Firstly, it is important to note that the DAS suggests that as part of the historic applications the Council could demonstrate a 5YHLS and therefore there has been a material shift in policy since the determination of the previous application. However, this fails to acknowledge that as part of the previous application the Council could also not demonstrate a sufficient supply of housing and as part of that application it was still considered that despite this the proposal conflicts with the NPPF’s ‘presumption in favour of sustainable development’. Therefore, in that respect it is not considered that there has been a material change to the considerations of the application.
- 5.1.16 In respect of the 2014 Strategic Housing Land Availability Assessment (SHLAA), the DAS notes that the site was considered suitable for development subject to planning protocol as part of that assessment. However, the Council has recently undertaken a Call for Sites exercise where the site has been found to be unsuitable for housing. That assessment states that:
- ‘On balance it is considered that development of the site would be unsuitable. The site lies on two rural unpaved lanes and the shoppers bus stop cannot be accessed safely without walking on a roadway and a lane. To access most services and facilities residents could require the use of a car to higher order settlement. Whilst the site does fit into the townscape and the impact on the wider landscape could be minimal, it could not outweigh the unsustainability of the location of the site and is therefore not suitable.’*
- Considering the above it is not considered that the now outdated SHLAA carries any weight in the determination of this application.
- 5.1.17 The DAS also discusses the contribution the provision of eighteen dwellings would make to the Council’s 5YHLS. However, the provision of eighteen units would not make a sufficient contribution to the Council’s 5YHLS figure and would not provide benefits which significantly and demonstrably outweigh the harm that has been discussed above and throughout the remainder of the report. The same is considered to apply in respect of the Affordable housing requirement, although this will be discussed in greater detail as part of the relevant section below.
- 5.1.18 An argument is also made in the DAS statement that because the site lies adjacent to the settlement boundary. Whilst it is noted that the site is adjacent to the development boundary, it is as a matter of fact it is outside of the settlement boundary. The boundaries were fairly recently confirmed as a result of the approval of the LDP in 2017 and therefore, it must be deemed that the boundary was deemed to be in the appropriate location, balancing the needs of housing provision and environmental/landscape protection. If the application site was deemed to be sustainable it is arguable that it would have been included within the settlement boundary.

- 5.1.19 The DAS also addresses the issues of accessibility providing reliance on the public footpath that runs along the eastern boundary of the site to Conduit Lane and then to the bus stop on Bryant's Lane. The provision of the closest bus stops was addressed as part of the previous Officer's Report and it is not considered that there are any changes to these considerations that would alter that stance. In terms of the Bryant's Lane bus stop, although this could be accessed by the public footpath from the east of the site, through Conduit Lane on to Bryant's Lane, the walk would be along an unlit footpath, which includes part of Conduit Lane which is trafficked. Therefore, the footpath would not provide an attractive or convenient form of alternative transport to the private car as it would not be useable during dark hours or times of inclement weather. There would always be safety concerns from vehicles using Conduit Lane. In this regard, the bus stop would not provide suitable transport provision for the development. The same assessment also applies in respect of the accessibility to the Village Hall and areas of Public Open Space on Post Office Road.
- 5.1.20 Whilst it is proposed that the development would make provision for electric charging points and travel packs for each dwelling, these provisions are standard requirements for developments of this size and therefore, this would not provide over and above the standard requirements for working towards sustainable transport. Therefore, these factors do not outweigh the harm in respect of the poor accessibility credentials of the site.
- 5.1.21 Overall, taking into consideration the above, which includes the considerations made as part of the previous application, it is not considered that the proposal represents sustainable development, and the benefits of the scheme are not considered to outweigh the harm.

5.2 Loss of Employment Use, Community and Tourism Facility and Sports and Leisure Facility

- 5.2.1 The proposed development would result in the entire loss of the existing facilities provided at the application site, which are a golf driving range, pitch and putt course and the sales of bottled gas. Therefore, the proposal would result in the loss of an employment generating use and a community, tourism and sports and leisure facility. As recognised historically, it is considered important that the use of this site is maintained and improved (or some similar activities provided) to support employment, tourism and sport and leisure opportunities in the locality. Therefore, in order for the proposal to be supported, it will need to comply with the criteria set out in policies E1, E3, E5 and N3 of the LDP.

Loss of Employment Use

- 5.2.2 Policy E1 of the LDP seeks to protect existing employment uses in the district. The proposed development would result in the loss of an employment generating use as a golf driving range, pitch and putt course and for the sales of bottled gas. Policy E1 stipulates that *'Proposals which will cause any loss of existing employment uses, whether the sites are designated or undesignated, will only be considered if:*

- 1) *The present use and activity on site significantly harms the character and amenity of the adjacent area; or*
- 2) *The site would have a greater benefit to the local community if an alternative use were permitted; or*
- 3) *The site has been marketed effectively at a rate which is comparable to local market value for its existing use, or as redevelopment opportunity for other Class*

B Uses or Sui Generis Uses of an employment nature, and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site's existing and potential long-term market demand for an employment use.'

- 5.2.3 In relation to criterion 1 and 2 the applicant suggests that floodlighting, golf balls travelling beyond the site and the general appearance of the golf related netting, lighting and paraphernalia harm the character and appearance of the area and its tranquillity. Additionally, it is contended that the nuisances arising from those using the site add to this harm. It is also suggested that the proposed public open space and play area would be a better community facility than the current private sports facility and the provision of eighteen dwellings within the district would result in the proposal having a greater benefit to the local community than the existing use. The housing to be provided is said to be of an enhanced standard with the dwellings being built to accommodate the ageing population, providing Accessible and adaptable dwellings M4(2) and also seeks to secure the affordable housing for the residents of the village only. However, as with the previous application, the proposal is not considered to be suitable for older people due to its inaccessible location. Further, the Council would expect to see a provision on the site for M4(2) dwellings and therefore, this is not a significant benefit. In respect of ensuring the affordable units are for residents of the village only, the application has not been put forward as a Rural Exception Scheme and as such Policy H5 is not applicable in this instance. Nevertheless, the application has not been supported by a local needs assessment to identify that these units are needed for the village residents. The Strategic Housing Officer has advised that this area is not one where the Council would seek a high percentage of Affordable Housing units, therefore, suggesting the local need is fairly low. Therefore, this is also not considered to provide a significant benefit to the scheme.
- 5.2.4 These points remain similar to those raised as part of the previous application, where it was considered that the existing use of the site is established and lawful and is not considered to cause harm to the character or amenity of the locality.
- 5.2.5 It was previously considered that whilst there are some limited benefits to the scheme, they were not considered to outweigh the harm of the proposal (identified within this report). In respect of golf balls travelling beyond the site, it was considered that the netting around the perimeter of the driving range could be improved to prevent such incidents in the future. The DAS has provided a response to this, suggesting that the netting would need to be doubled in height, which would have financial implications for the Applicant as well as creating issues around stability and impacts on the character and appearance of the site. The Applicant has provided evidence of a quote for replacement netting and support posts that surround the driving range for £247,500 and has also provided commentary regarding the viability of the business, suggesting that the business would make a loss once the Applicant and his Wife have been paid their wage, if the sale of bottled gas was not taking place at the site. This, therefore, suggests that it would not be feasible for the Applicant to replace the netting. However, the viability of the business has only been provided for the last 12-month period which is not considered to be an accurate representation of the use of leisure facilities and therefore the LPA has not been provided with a precise picture. Furthermore, the increase in height of the netting would be subject to a separate planning application to assess its suitability and as such it is not for this application to assess the impacts of such a development, but arguably given the siting of the netting, even if increased in height would have lesser impacts on the character and appearance of the area than the proposed development.

5.2.6 The proposed development would result in the provision of eighteen dwellings. However, previously it was found that the benefit of 25 dwellings would be offset by the inappropriate, unsustainable, and inaccessible location. Likewise, the benefit of the provision of public open space and a children's play area was considered to be offset by the loss of an employment generating use and a sport and leisure, community, and tourism facility. Therefore, it was considered the existing lawful use has a greater community benefit than that proposed, even taking into account the inability of the Council to demonstrate a 5YHLS. Given that the proposal now proposes a lesser number of dwellings the benefits of the scheme are further diluted and the above remains applicable.

5.2.7 As part of the previous application the NHS Property Services also highlighted the importance of the existing facility to the community stating the following within their consultation response:

'Development of the site for housing would result in the loss of an existing sports facility. The CCG does not support the loss of sports facilities as physical activity results in improved physical and mental health.'

'It is noted that the planning statement submitted states loss of the golf driving range would not be harmful as it is a private facility not available to the general public, is currently underused and other similar facilities are available. However, the loss of the facility would reduce the offer in the Maldon area and so may result in reduced participation in sport and physical activity. Whereas it could be operated in such a way to encourage and increase participation.'

5.2.8 Whilst the NHS have not responded to this application there is no reason to believe that the above comments do not remain applicable.

5.2.9 In relation to criterion 3, as with the previous application, no evidence has been submitted to demonstrate that the property has been marketed, and therefore the site's existing and potential long-term market demand for an employment use is unable to be assessed.

Loss of a Community Facility

5.2.10 Policy E3 of the LDP states that *'Community services and facilities include, but are not limited to, local shops, post offices, public houses, libraries, places of worship, education facilities, cultural facilities, fuel filling stations, public halls, health care facilities, sporting facilities and local green spaces.'* Given the site is in use as a golf driving range and pitch and putt course the proposed development would result in the loss of a community facility. Policy E3 stipulates that *'Where a proposal will result in the loss of community services or facilities, an application will be required to demonstrate to the Council's satisfaction that:*

- 1) The existing business/service is not and cannot be made viable; and*
- 2) Effective marketing has been undertaken to demonstrate that there is no viable and appropriate alternative community service-based use.'*

5.2.11 In relation to criterion 1, the existing business, which encompasses a golf driving range, pitch and putt course and the sales of bottled gas is considered to be viable. As part of the previous application the Planning Statement said that *'The existing facility is a private one that is under-used and is subsidised by retail sales of bottled gas, without which it would fail. It cannot reasonably be said then that it is a viable*

enterprise'. Therefore, the Officer's Assessment stated that whilst the applicant contended that the golf driving range and pitch and putt course would not be viable without the sale of bottled gas, it had been confirmed that the business as a whole is viable. In addition, no evidence to substantiate this claim had been submitted. The applicant had also claimed that *'the LPA simplistically and incorrectly conflates the sale of bottled gas from the site with the golf driving range business. The two are entirely separate and unrelated operations. It is simply that the sale of bottled gas enables the applicant to maintain the golf driving range from the same site'*. However, it was deemed a fact that the existing business/businesses at the application site was and are viable and this is not considered to alter the stance previously taken by the LPA.

- 5.2.12 Further, it was noted at paragraph 5.47 of the previous Planning Statement that over a 13-week period (27 May-31 August 2019), there were approximately 67 customers per day visiting the site to utilise the driving range and pitch and putt and 685 bottles of gas were sold over this period. These figures were considered to strengthen the view that the existing business is viable. As part of this application, it is stated that over a 12-month period that there was an average of 46 people per day using the driving range, with no figures provided in relation to the sale of gas. Whilst it is accepted that the average is likely lower as a result of 13-week period provided within the previous application was high season, there has been no evidence to support this or the differences between the figures. Likewise, the sale of the gas has not been included in the viability assessment of this application, except for the DAS acknowledging that it supports the viability of the business. Although the repairs to the fence would add financial burden to the business, this relates to a one-off payment and costs for the repair and maintenance of the facility and therefore, further evidence in respect of how this affects the overall viability of the business, rather than just daily takings of the golfing facilities, would be required.
- 5.2.13 In relation to criterion 2 no evidence has been submitted to demonstrate that the property has been marketed and therefore, as above, the site's existing and potential long-term market demand for an employment use is unable to be assessed.
- 5.2.14 The DAS states that the previous applications have over inflated the levels of employment at the site, as the business never has employed 15 people at any given time. It is said that one full-time and four part-time staff are employed at the site. This loss of employment still weighs against the proposal and given the concerns in respect of accessibility and other matters discussed below the benefits are still not considered to significantly and demonstrably outweigh the harm.

Loss of Tourism Provision

- 5.2.15 Policy E5 of the LDP states that the Council encourages the provision of tourist attractions and facilities. The existing use of the site as a golf driving range and pitch and putt provides tourist facilities to the district. Policy E5 of the local plan states *'To protect existing tourism provision, the change of use from tourism uses will only be considered if:*
- a) There will be no significant loss of tourism facilities as a result, or an alternative provision in the locality can meet the needs;*
 - b) The existing business / service is not and cannot be made viable; and*
 - c) There is no known demand for existing and alternative tourism use, and the site has been marketed effectively for all alternative tourism related uses.*

- 5.2.16 In an attempt to demonstrate compliance with the first stipulation a list of three alternative golf facilities within the district have been highlighted within the planning statement. However, the presence of alternative facilities alone is not considered to demonstrate that there will be no significant loss of tourism facilities as a result of the proposed development or that the alternative facilities can meet the needs. Further to this it is considered that the site provides a somewhat different facility to formal golf courses.
- 5.2.17 In respect of the second stipulation, as highlighted above it is not considered that it has been demonstrated that the existing business is not viable.
- 5.2.18 In respect of the third criterion, no evidence to demonstrate that the site has been marketed has been submitted with the application. Therefore, it is not possible to assess if there is a demand for the existing or an alternative tourism use at the application site.

Loss of Sport and Leisure Facility

- 5.2.19 Policy N3 of the LDP seeks to protect open land and sport and leisure facilities within the district. Policy N3 stipulates that '*Proposals for development on open space, sports and recreational buildings and land, including playing fields, will not be allowed unless:*
- 1) Through an assessment there is clear evidence that the open space, buildings or land are surplus to requirements to meet local needs; or*
 - 2) The resulting loss would be replaced by new open space, buildings or land of equivalent or better provision in terms of quantity and quality and in a suitable location accessible by the local community; or*
 - 3) The development is for alternative sports and recreational provision and the need for that provision clearly outweighs the loss of open space, buildings or land.'*
- 5.2.20 In relation to stipulation 1, insufficient evidence has been submitted to demonstrate that the existing use is surplus to meet local needs. Therefore, the proposal is contrary to this stipulation.
- 5.2.21 In relation to stipulation 2, the existing use of the site would be replaced by 18 residential dwellings and associated development. Therefore, the proposal fails to comply with this stipulation. Whilst part of the site is proposed to be used as public open space equipped with a play area it is not considered to be equivalent or better provision in terms of quantity and quality. In addition, although the public open space has been sited close to the public footpath, as addressed previously this will not always be usable and as such it is still considered that the open space is removed from the village.
- 5.2.22 In relation to stipulation 3, as highlighted above, the proposal is for 18 dwellings and associated development and it is not considered that the benefits of the scheme outweigh the loss of the recreation facilities.
- 5.2.23 Given the above assessment and the lack of substantive evidence submitted with the application, it has not been demonstrated to the LPA that the proposed development complies with the relevant criteria set out in policies E1, E3, E5 and N3 of the LDP.

5.3 Affordable Housing and Housing Mix

Affordable Housing

- 5.3.1 Policy H1 requires that all housing development of 10 units or more or 1,000sqm contribute towards affordable housing provision to meet the identified need in the locality and address the Council's strategic objectives on affordable housing.
- 5.3.2 The application proposes 18 dwellings therefore, 7.2 units of affordable accommodation need to be provided in order for the proposal to be policy compliant. The approved LHNA published on 16 July 2021 now forms a material consideration with regards to planning applications and identifies a tenure mix of 75% Affordable/Social Rented and 25% Intermediate Affordable units.
- 5.3.3 The applicant has confirmed within the submitted Planning Statement that 8 affordable units are proposed. The applicant also indicates a willingness to enter into a S106 legal agreement. However, a signed S106 agreement has not been submitted in support of this planning application.
- 5.3.4 The Council's Housing team has assessed the proposal and advised that whilst the Council seeks the provision of on-site Affordable Housing as per policy H1, in exceptional circumstances the Council may consider accepting a financial contribution from the developer where it is justified that affordable housing cannot be delivered on-site, or that the District's need for affordable housing can be better satisfied through this route. This location in Maldon is not an area where Strategic Housing would look to seek a high number of affordable units, however, Strategic Housing could look to seek a smaller quantum of Affordable Housing on site with the remaining percentage of Affordable Housing being delivered through a financial contribution. This would meet the local need for affordable housing units whilst also allowing for a way to meet the needs of the District as a whole.
- 5.3.5 Having regard to the above it is considered that the proposal is policy compliant with regards to Affordable Housing, subject to final details. Furthermore, it is noted that a minor over provision is proposed in order to deliver a rounded number of units on site. However, a signed legal agreement has not been submitted to the Council and the benefits of 4.4% over provision of affordable housing is considered limited. Therefore, the development makes no contribution for affordable housing, and would therefore not contribute to a strong vibrant community as it would not provide a supply of housing required to meet the needs of present and future generations and as such is not considered to represent sustainable development, contrary to policies S1, H1 and I1 of the LDP, and Government guidance as contained within the NPPF.

Housing Mix

- 5.3.6 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position, the NPPF states that Local Authorities should consider applications for new dwellings in the context of the presumption in favour of sustainable development, and the LDP policies in relation to the supply of housing should not be considered to be up to date. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.
- 5.3.7 Whilst the LDP carries limited weight at present due to the lack of a 5YHLS and consequent impact on its housing delivery policies in particular (including those

policies which define settlement boundaries), the NPPF is clear that housing should be provided to meet an identified need.

- 5.3.8 The Local Housing Needs Assessment (LHNA) (2021) is an assessment of housing need for Maldon District, as a whole, as well as sub-areas across the District which are considered alongside the housing market geography in this report. The LHNA is wholly compliant with the latest NPPF and Planning Practice Guidance and provides the Council with a clear understanding of the local housing need in the District and demographic implications of this, the need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build housing.
- 5.3.9 The specific housing mix has not been included as part of the application, but the DAS states that the *'proposals are for well-proportioned two-, three-, and four-bedroom dwellings*. The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for 3 bed dwellings; specifically, 25-35% 2-beds and 40-50% 3-beds. The precise housing mix could be secured by a condition to ensure that it is policy compliant. However, whilst a minor benefit can be drawn from the delivery of a suitable mix of dwellings, this would not outweigh the concerns raised within the report.

5.4 Design and Impact on the Character of the Area

- 5.4.1 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.
- 5.4.2 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".

- 5.4.3 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.

- 5.4.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.4.5 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.
- 5.4.6 Outline planning permission with all matters reserved is sought for 18 dwellings. The application site lies outside of the defined development boundary of Woodham Mortimer in a rural location. It is pertinent to note that the visual impact of the previously refused schemes for 25 dwellings (2021 & 2020) and 8 residential dwellings at the site formed a reason for refusal, specifically stating:

21/00693/OUT:

'The proposed development would fundamentally alter the open character of the south western edge of the village. The provision of twenty-five unjustified residential dwellings on this site currently used as golf driving range / pitch and putt would fail to provide visual enhancement to the wider rural locality, representing the encroachment of built form into the rural site and sprawl of development into the countryside. The layout of the access road is in stark contrast to the existing development within Woodham Mortimer and is considered to contribute to the harm of the proposal. Therefore, the proposal fails on the environmental stand of sustainability, in conflict the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8, D1, and H4 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.'

20/00675/OUT:

'The proposed development would fundamentally alter the open character of the south western edge of the village. The provision of twenty-five unjustified residential dwellings on this site currently used as golf driving range / pitch and putt would fail to provide visual enhancement to the wider rural locality, representing the encroachment of built form into the rural site and sprawl of development beyond the settlement boundary. The layout of the access roads, particularly the cul-de-sac arrangements, is in stark contrast to the existing development within Woodham Mortimer and is considered to contribute to the harm of the proposal.'

17/00286/OUT:

'The proposed development would fundamentally alter the open character of the south western edge of the village. The provision of eight residential dwellings on this site currently used as golf driving range / pitch and putt would fail to protect or enhance the tranquility, amenity and traditional quality of the rural area by introducing unacceptable built form into a site that currently contributes to, the rural quality of the area.'

- 5.4.7 The application site is located on the south western edge of the village of Woodham Mortimer. The northern boundary of the site abuts open and undeveloped land sited between the rear boundary of the application site and Conduit Lane. To the east the site abuts the residential gardens of Nursery Barn and Salters Folly and the western boundary of the site abuts the rear gardens of four residential properties, which are located within the settlement boundary of Woodham Mortimer. The site fronts onto Burnham Road with open and undeveloped fields located opposite the site. The stretch of Burnham Road within the vicinity of the site is characterised by low density development with an abundance of soft landscaping, residential dwellings located sporadically along the northern side of the road and mainly open and undeveloped fields to the south. The application site is located within the rural countryside and the largely undeveloped nature of the site contributes to the open and rural nature of the area.
- 5.4.8 The prevailing settlement pattern, seen on Conduit Lane (to the north of the site and Post Office Road (to the east), is predominantly dwellings facing the highway with each plot having individual parking and vehicle access onto the highway.
- 5.4.9 As part of the previous application, it was said that the site as existing is largely undeveloped. The existing low level reception building, and the paraphernalia associated with the golf driving range and pitch and putt, was not considered to harm the rural area. The large expanse of open land was considered to contribute positively to the character and appearance of the rural area. The construction of the 25 dwellings along the entire western side of the site was considered to significantly alter the character of the site and that it would have significant visual impact on the wider area. It was considered that the principle of siting 25 dwellings on a site, in a rural location, that is currently occupied by single storey building and remains largely undeveloped would result in the urbanisation and domestication of the site, representing an encroachment of built form into the site and sprawl of development beyond the settlement boundary. The resulting form of development would detract from the rural character, appearance, and natural beauty of the locality. This was said to fail to provide visual enhancement to the wider rural locality and would intensify the urban appearance of this rural locality. Whilst it was noted that the eastern side of the site was proposed to be retained as public open space, which was seen to be a welcome feature, the proposed car parking area and play area was found to add to the urbanisation and domestication of the site.
- 5.4.10 The visual impact of the development from public vantage points was found to be significant. Views of the development were noted to be available from Burnham Road, particularly through the access point. In addition, regard was had to the public footpath which runs along the entire eastern boundary of the application site. The scale, mass and extent of development was said to be significant and readily visible from the public footpath.
- 5.4.11 In respect of the above, it is not considered that the indicative layout has been substantially altered to a degree which would materially change the above assessment. Rather, the revised layout presents a more significant sprawl across the site towards the east, despite the fact there is a lesser number of dwellings proposed. Whilst the development is shown to be set further back from Burnham Road, there would still be public vantage points from this road and the encroachment of development towards the east of the site, adjacent to the footpath would exacerbate the impacts from the footpath. Furthermore, the car park has been removed, but given the sprawl of development the concerns in respect of the urbanisation and domestication of the site has not been overcome.

5.4.12 Although the layout is indicative, the proposal includes the provision of Public Open Space which would need to be of an appropriate size and also SuDS features. Furthermore, there is a need to direct the development away from Burnham Road to respect the rural character of this part of that road. Therefore, it is considered unlikely that an alternative layout could be provided that would not result in similar impacts. However, it is relevant to comment on the indicative layout at this stage:

5.4.13 Woodham Mortimer is defined as an 'Arcadian Settlement' within the MDDG. Arcadian Settlements are described as:

'Houses are generally in large plots and partially hidden from public view, nestling in mature tree cover, hedgerows and landscaping and structural planting.'

'The existing streetscape is characterised by an original network of lanes, where properties are often set back behind substantial front gardens. The roadside hedges, trees, green verges and ditches were retained. Deep gardens to the side and rear were retained with planted boundaries. The density can be as low as six dwellings per hectare.'

5.4.14 The dwellings immediately adjacent to the site are generally sited centrally within generous size plots with space between buildings and creating a sense of openness and tranquillity representative of the countryside setting of Woodham Mortimer.

5.4.15 The indicative layout and a proposed access track have been amended from that previously shown under the terms of application 21/00693. Whilst the development remains predominantly along the western side of the site, the main access road now runs to the north serving a road that runs across the site in an east to west fashion, expanding the development to the north eastern corner, rather than keeping the eastern parcel completely free from dwellings. The previous application provided 25 dwellings set around a loop within the western side of the site, starting and finishing at the access point. In contrast this proposal relates to three internal roads with ribbon development fronting them on one side, with two dwellings located on the western side of the main access track adjacent to the site entrance.

5.4.16 Whilst it is noted that the changes have been made in response to concerns regarding in relation to the layout and its relationship to the surrounding development pattern, the proposal still fails to assimilate with the surrounding pattern of development. The dwellings would appear to be of a more Arcadian character, in that they would be more set back from the road frontage, the regimented internal road layout does not provide the 'network of lanes' character that is expected from an Arcadian Settlement. Furthermore, the dwellings at the far west of the site would be facing the back boundaries to the three dwellings fronting the main access road, which is not considered a successful design approach.

5.4.17 Indicative landscaping namely, boundary hedges and tree planting across the site and an area of public open space has been shown. Whilst the landscaping would provide some visual mitigation to the wider area and the area of public open space would be a welcome addition to the site, the provision of these elements alone would not be sufficient in over coming the impacts on the character and appearance of the area.

5.4.18 As with the previous application, the LPA is no longer able to meet a deliverable supply of homes that is in excess of five years. However, the significant detrimental impact the proposal would have on the rural character of the area and the intrinsic

beauty of the countryside and the resulting environmental harm would significantly outweigh the benefits arising from the provision of additional residential dwellings.

- 5.4.19 Having regard to the above assessment it is considered that the proposed development would have a significant visual impact on the site and surrounding area particularly given the visual prominence of the site. The development would represent the encroachment of built form into the rural site. The layout of the access roads, namely the regimented access roads and the layout of the dwellings is also not considered to reflect the character of the area. Therefore, the proposal is considered to be to the detriment of the character and appearance of the site and the surrounding rural area contrary to policies S1, S8, H4 and D1 of the approved MDLDP and guidance contained within the NPPF.

5.5 Impact on Historic Interest of Listed Buildings

- 5.5.1 The application site is adjacent to the listed building Salters Folly which is grade II* listed building. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. In the terminology of the NPPF, the Council must consider whether the proposal will 'harm' the listed building's 'significance'. Similar advice is contained within policy D3 of the LDP.
- 5.5.2 Salters Folly is located around 35m from the south east corner of the application site. Given the separation distance and the intervening vegetation it is not considered that the proposal would harm the setting or significance of Salter's Folly. Therefore, there is no objection at this stage, in terms of the impacts on the nearby heritage assets in accordance with the NPPF and policy D3 of the approved MDLDP.
- 5.5.3 A public comment has been received stating that the removal of the golf range existing car park to be replaced with public open space and planting would improve the setting of the Listed Building. However, given the distances discussed above this is not considered to be a significant improvement that would outweigh the harm.

5.6 Impact on Residential Amenity

- 5.6.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight, and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.6.2 The application is outline in nature, with matters relevant to the impact of the development on the neighbouring residential occupiers, such as scale, appearance, and layout, being reserved for future consideration. Given that the matters mentioned above are subject to submission and revision and considering the limited level of information provided with the application, it is not possible to fully assess the impact of the proposal on residential amenity.
- 5.6.3 Notwithstanding the above, it is clear from the submitted information that the proposed development would result in up to 18 dwellings, which will inevitably increase levels of activity on site in comparison to the existing use. The site abuts residential development to the west and east. On that basis, the proposed residential development would result in a use that is compatible in terms of amenity with the adjoining residential character of the area and thus, it would not adversely impact

upon the amenities of the neighbouring occupiers in that respect.

- 5.6.4 Having regard to the indicative layout the most effected existing residential properties are likely to be the four residential dwellings to the west of the site, the rear gardens of these dwellings back on the application site.
- 5.6.5 The MDDG states that where new development backs on to the rear gardens of existing housing, the distances between buildings should be 25m (C 07 Residential Amenity). The indicative layout shows that the dwellings which are located adjacent to the western boundary can achieve a back-to-back distance in excess of the required 25m. However, this would need to be fully assessed at the reserved matters stage when the layout is fully known. However, having regard to the distances that can be achieved it is considered that the scheme could be designed to minimise any unacceptable impacts to the neighbouring occupiers in terms of overlooking, a loss of light or a dominating impact. It is therefore considered that an appropriate layout could be produced so that the amenities of the neighbouring occupiers are not detrimentally impacted.
- 5.6.6 It is also considered that the site would be large enough to ensure suitable separation distances between the proposed dwellings. The finer details such as the siting of windows would need to be considered at Reserved Matters.

5.7 Access, Highway Safety

- 5.7.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.7.2 The proposed development is outline in nature, with all matters reserved. Therefore, the matters in relation to access and the layout and provision of car parking would be assessed at the detailed stage. However, it is prudent to provide comment on these matters at this stage.

Access and Highway Safety

- 5.7.3 The existing access to the site is taken from Burnham Road and is located at the eastern end of the site frontage. The indicative layout plan suggests that it is proposed to retain and upgrade the existing access point to serve the proposed dwellings. Whilst Essex County Council Highways Authority (ECC) has not commented fully on the application, they raised no objection previously to the provision of the same access as part of the previous application. In this respect it is considered likely that a suitable access could be provided at the detailed stage.
- 5.7.4 Notwithstanding the above, the Local Highway Authority had requested that the LPA obtain vehicle tracking movements for refuge vehicle and fire tender entering and exiting the site access and around the internal estate roads, but as access and layout are not matters for consideration at this stage, it is not considered necessary to request this information.
- 5.7.5 No information relating to trip generations has been provided in respect of this application. However, as it was deemed previously that the provision of 25 dwellings

was unlikely to generate as many trips as the existing use of the site when fully operational there are no concerns to raise in relation to this matter at this stage.

- 5.7.6 As outline above, the Applicant has expressed their willingness within the DAS to provide Residential Travel Information Packs, which could be secured by a planning obligation. However, in the absence of a signed legal agreement this is unable to be secured. Further, as previously discussed this is not considered to be a substantial benefit to the scheme, even if secured by way of legal agreement, as this is a standard provision for residential developments of a certain size.

Parking Provision

- 5.7.7 The proposed dwellings would provide two, three and four bedroom dwellings. The recommended car parking provision for a one-bed dwelling is 1 car parking space, for a two-bed dwelling is 2 car parking spaces and 3 spaces for a four+ bedroom dwelling.
- 5.7.8 Each plot as shown on the indicative layout appears capable of providing a sufficient number of vehicle parking spaces. However, this would be a matter to be fully considered at reserved matters stage once the bedroom numbers are known and the layout finalised.

Proposed Cycle Path and Public Right of Way

- 5.7.9 The previous application proposed a cycle path shown within the development, which is proposed to connect to Footpath 25. However, this no longer forms part of the proposal and as such the concerns raised by the Local Highway Authority fall away, albeit this did not previously form a reason for refusal.

5.8 Private Amenity Space

- 5.8.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure, and public open spaces. In addition, the adopted Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.
- 5.8.2 The proposed development is outline in nature, with matters of layout, scale, appearance, and landscaping reserved for future consideration.
- 5.8.3 The proposed dwellings would provide two, three and four bedroom dwellings. . Therefore, the private amenity area to serve each dwelling should be a minimum of 50m² for the two beds and 100m² for three and four beds. The indicative layout plan submitted demonstrates that each plot could provide an amenity area in excess of 100m². Therefore, no concerns in respect of private amenity space are raised at this time. However, this would be a matter to be fully considered at a reserved matters stage once the dwelling sizes are known.

5.9 Flood Risk and Drainage

- 5.9.1 Policy D5 of the LDP sets out the Council's approach to minimising flood risk. Policy S1 requires that new development is either located away from high-risk flood areas or is safe and flood resilient when it is not possible to avoid such areas.

- 5.9.2 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 more than 1 hectare in size and therefore has been accompanied by a Flood Risk Assessment (FRA).
- 5.9.3 The Lead Local Flood Authority (LLFA) has been consulted on the FRA and have raised no objection subject to conditions requiring:
- A detailed surface water drainage scheme
 - A scheme to minimise the risk of offsite flood caused during the construction works.
 - A maintenance plan for the surface water drainage system
 - Yearly logs of maintenance
- 5.9.4 Having considered the comments made by the LLFA, subject to the imposition of the above conditions if the application were to be approved, there is no objection raised in respect of flood risk and drainage.

5.10 Nature Conservation and Biodiversity

- 5.10.1 Paragraph 170 of the NPPF states that *'Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity.'*
- 5.10.2 Strategic LDP policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.10.3 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure. LDP Policy N2 states that, any development which could have an adverse impact 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. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.
- 5.10.4 The application has been accompanied by a Preliminary Ecological Assessment. The Ecology Consultant has not yet provided a response on the application. However, Officers have concerns over the validity of the Assessment as it does not appear to have been dated. Although no objection was raised as part of the previous application, the PEA provided as part of that application is now 2 years out of date, being dated September 2020 which also raises concerns in respect of its validity. A response from the Ecological Consultant will be sought where possible and updated via the Members' Update.
- 5.10.5 In terms of offsite impacts, 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 interest features of these coastal European designated sites, through increased recreational pressure etc.

- 5.10.6 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 (Zoi) for the Essex Coast RAMS with respect to the below sites? Yes

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

Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites

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

- 5.10.7 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 £2478.78 is necessary. Whilst the applicant has expressed that they are willing to enter into an agreement to secure the required mitigation. given that a signed S106 Agreement has not been submitted, to support the application the mitigation is not secured.

- 5.10.8 Based on the lack of secured mitigation through RAMS the proposal would be contrary to policies S1, D1, N1 and N2 of the LDP and Government advice contained in the NPPF.

5.11 Other Matters

Public Open Space

- 5.11.1 It is noted that an area of public open space is proposed to be provided within the south eastern part of the application site. However, its accurate location would need to be agreed as part of the site layout at the detail stage. Nevertheless, in the absence of a legal agreement securing the public open space the impact of the development and its future needs would not be able to be secured and thus, an objection is raised in that respect.

Archaeology

- 5.11.2 The Historic Environment Officer at Essex County Council has confirmed that the site is located within an area of historic environment potential. The Historic Environment Characterisation assessment for Maldon District establishes that the site falls within Historic Environment Characterisation Zone 7.2, which has moderate significance for the Historic Environment. As archaeological features and deposits are both fragile and irreplaceable, should the application be approved full archaeological conditions should be imposed in line with the guidance set out within the NPPF.

Contamination

- 5.11.3 The Council's Environmental Health department advised as part of the previous application that due to the northern end of the driving range being levelled with an unidentified fill; contaminated land conditions should be imposed, if the application were to be approved. Contamination conditions have also been suggested by Environmental Health as part of this application.

Noise

- 5.11.4 The indicative layout plan shows that dwellings would be located in close proximity to Burnham Road (B1010) which is heavily used by vehicles. Whilst it is noted that the layout is a reserved matter, given the proximity of the indicative dwellings to the road, it is recommended that should the application be approved a condition to ensure that a noise assessment is submitted with the reserved matters application, should be imposed.

Trees

- 5.11.5 The application has been supported by an Arboricultural Impact Assessment and Tree Constraints Plan. The report suitably identifies the quality of the trees and how they will be impacted. Whilst in principle it is considered that the scheme could be acceptable, the retention of the better-quality trees and long-term protection would need to be put in place, which could be secured by a condition. Furthermore, a more detailed soft landscaping scheme would be required to compensate for the loss of trees and enhance the amenity and ecological benefit. This again can be secured by a condition.
- 5.11.6 Whilst the details of protection have been provided this would need to be amended when the layout is approved and would therefore, need to be subject of a condition.

NHS Property Services

- 5.11.7 The NHS Property Services Planning Policy Officer has not provided a response to this application. However, as part of the previous application they confirmed that the proposed development would impact GP practices which currently do not have the capacity to accommodate the additional growth resulting from the proposed development. That development was expected to generate approximately 60 new residents and subsequently increase demand upon existing constrained services. However, it was found that the impact of the proposed development on healthcare facilities could be mitigated via a financial contribution which was calculated at £9,430. The contribution is expected to be lower given the reduced dwelling numbers proposed as part of this application, although a contribution is still expected to be required. Therefore, there is an objection raised in this respect.

5.12 Planning Balance and Sustainability

- 5.12.1 It is important to recognise the balance between the Local Plan policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a 5YHLS. The tilted balance is engaged in this case and hence the LPA must give significant weight to the NPPF and its fundamental position of sustainable development, which is the defining purpose of the planning system, as a material consideration.
- 5.12.2 The key priority within the NPPF, is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for an economic, social, and environmental objective as set out in the NPPF.
- 5.12.3 Notwithstanding the considerations as contained in those paragraphs, it is incumbent on the LPA, where appropriate, to consider, as a matter of general planning judgment, the site specific or scheme specific reasons for refusal. However, it does mean that planning applications submitted for land, which is unallocated or located outside defined settlement boundaries, as set out in local plan policies, could no longer be refused on those grounds alone.
- 5.12.4 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall (with reasons), against the harm identified (if any) arising from the proposed development.
- 5.12.5 With regard to the 3 tests of sustainability, in economic terms, it is reasonable to assume that there may be some support for local trade from the development. This was however found to be limited as part of the previous application given the scale of the proposal was for 25 dwellings. Equally, it was considered that there was no guarantee that the construction works required for the development would be undertaken by local businesses, the economic benefits of the proposal were therefore considered minor. Furthermore, whilst it was acknowledged that the residents of the proposed dwellings would bring some economic benefits to the village, which may provide some support to existing services, it was not considered that the benefits would be substantial. Therefore, due to the limited provision of local businesses, shops and services and the minor nature of the development it was found that there would be a limited increase in footfall or economic benefit to the area. In addition, the proposal was considered to result in the unjustified loss of an employment use and tourism facility which was deemed to significantly outweigh any benefits in this respect. Given that the proposal would provide a lesser number of units than previously the case the economic benefits of this scheme are considered to be lower than before. Furthermore, the concerns in respect of the loss of the existing facilities remain.
- 5.12.6 The previous proposal was also considered to result in the unjustified loss of a community and sports facility which was considered to weigh heavily against the social sustainability of the site. Again, this has not changed as a result of the amendments to this application. Furthermore, the occupiers of the site would still be reliant on private cars due to the lack of a lit footpath to the nearby facilities. Whilst the proposal would provide slightly over the required affordable housing contribution, this alone is not substantial enough to significantly and demonstrably outweigh the harm.
- 5.12.7 In environmental terms, the site has limited access to services, facilities, and public transport infrastructure and that the occupiers of the dwellings will be reliant on

private motor vehicles to satisfy the requirements of day-to-day living. Furthermore, the development would also harm the character and appearance of the rural area.

5.12.8 Overall, taking this into account, the development is not considered to be sustainable as the limited benefits do not outweigh the substantial harm outlined within the report above.

6 ANY RELEVANT SITE HISTORY

- **21/00693/OUT** - Outline planning permission with the matter of access for consideration is sought for the demolition of the building and replacement of the driving range and pitch & putt with up to 25 new one- and two-bedroom single storey dwellings and public open space with an equipped play area.- Refused 08.10.2021
- **20/00675/OUT** - Outline planning permission with the matter of access for consideration is sought for the demolition of the building and replacement of the driving range and pitch & putt with 25 new one and two-bedroom detached and semi-detached elderly persons/disabled bungalows. – Refused:16.10.2020
- **17/00293/SCR** - Request for a Screening Opinion to determine the requirement for an Environmental Impact (EIA) for residential development for 8No. two-storey detached dwelling houses and associated garages, lay out parking, amenity areas, estate road, footpaths landscaping and foul and surface water drainage infrastructure and alter access onto Burnham Road. EIA Not Required: 15.03.2017
- **17/00286/OUT** - Demolish building and cease driving range and pitch and putt uses. Erect 8No. two-storey detached dwellinghouses and associated garages, lay out parking, amenity areas, estate road, footpaths landscaping and foul and surface water drainage infrastructure and alter access onto Burnham Road (B1010). – Refused: 28.06.2017

7 CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish/Town Councils

Name of Parish / Town Council	Comment	Officer Response
Woodham Mortimer and Hazeleigh Parish Council.	<p>Comment – previous applications have been supported by the Parish with some concerns and recommendations.</p> <p>This application is supported as many residents would welcome the cessation of the current activities which cause nuisance. However, a condition should be imposed ensuring that Woodham Mortimer Brook can sustain the expected volumes from water discarded from the proposed properties,</p>	<p>The existing use is addressed at section 5.1. whereas the flood risk is addressed at section 5.9.</p>

Name of Parish / Town Council	Comment	Officer Response
	without increasing flood risk elsewhere.	

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Natural England	A Habitats Regulation Assessment should be undertaken in respect of the Essex Coast RAMS.	Addressed at section 5.10 .
Archaeology	The proposed development site has the potential to impact on archaeological remains. Therefore, archaeological conditions are proposed.	Noted, should the application be approved then archaeological conditions would be imposed.
Lead Local Flood Authority.	No objection subject to conditions relating to a number of conditions in relation to surface water and drainage.	Noted and addressed at section 5.9.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	A noise condition is recommended as the indicative layout shows two houses along the boundary of the busy B1010.	Noted and addressed at section 5.6 .
Conservation Officer	The distance of the proposed houses from the listed building and the intervening vegetation are such that the proposal should not harm the setting or significance of Salter's Folly. The scheme would therefore pose no conflict with Policy D3 of the Maldon LDP, the policies set out in Chapter 16 of the NPPF or with the statutory duties set out in section 66(1) of the Planning (Listed Buildings	Noted and addressed at section 5.5.

Name of Internal Consultee	Comment	Officer Response
	and Conservation Areas) Act 1990.	
Strategic Housing Services	The scheme is Policy Complaint with regards to Affordable Housing, proposing 8 units (44%) above the Policy requirement, subject to an appropriate tenure, cost, and allocation of units to be agreed as part of a S106.	Addressed at section 5.3

7.4 Representations received from Interested Parties

7.4.1 2 letters of objection have been received. The reasons are summarised in the table below:

Objecting Comment	Officer Response
Outside of the settlement boundary.	Addressed at section 5.1
The village cannot accommodate the disproportionate number of dwellings proposed.	It is not considered that the provision of 18 dwellings would place a substantial burden on the facilities and services of the village. However, accessibility is addressed at section 5.1.
Concerns over flood risk.	Addressed at section 5.9.
The affordable dwelling mix has not been specified and would not be affordable.	The mix can be agreed via a condition. The affordable units would meet the definitions of affordable housing set out within the NPPF and a S106 agreement would be put in place to secure this.
Pedestrian accessibility concerns.	Addressed at sections 5.1 and 5.7..
The previous application was refused, and this is trying to overcome the previous refusal without merit.	Comparisons between the two applications and the justification for the Officer’s recommendation in respect to this is made throughout the report.

7.4.2 1 letter supporting the application has been received, and has been summarised in the table below:

Comment	Officer Response
If the application is approved, it is assumed that it will have conformed to the local planning criteria. It appears to be well thought out and the number of dwellings fit well into the site. The	Comments are noted. Layout and design are addressed at section 5.4, impacts on the Listed Building at section 5.5

<p>neighbouring Grade II* listed property would benefit from the removal of the golf range to become an open space. The removal of the car park to be replaced with trees and grass verging would improve the rear aspect of the property.</p>	
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8 REASONS FOR REFUSAL

1. The application site is in an unsustainable and rural location and remote from essential support facilities and community services; is inaccessible by a range of transport modes and is located where the need to travel would be maximised and the use of sustainable transport modes would be minimised and would therefore represent an unsustainable form of development, failing in relation to the social strand of sustainability. Therefore, the proposal conflicts with the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8 and T2 of the Maldon District Local Development Plan.
2. The proposed development would fundamentally alter the open character of the south western edge of the village. The provision of eighteen unjustified residential dwellings on this site currently used as golf driving range / pitch and putt would fail to provide visual enhancement to the wider rural locality, representing the encroachment of built form into the rural site and sprawl of development into the countryside. Therefore, the proposal fails on the environmental stand of sustainability, in conflict the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8, D1, and H4 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.
3. The proposed residential development would result in the unjustified loss of an employment use, community facility, tourism facility and sports and leisure facility. It has not been satisfactorily justified or evidenced that the sites present use significantly harms the character and amenity of the area, the proposed use would be a greater benefit to the community, or that the site has been marketed for sale or rent and that there is a confirmed lack of interest. Further, it has not been demonstrated that the existing use is no longer viable, that there will be no significant loss of tourism facilities or that the land is surplus to requirements to meet local need or that alternative provision in the locality can meet the needs. Therefore, the proposal conflicts with policies E1, E3, E5 and N3 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.
4. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the development makes no contribution for affordable housing to meet the identified need in the locality, the necessary financial contribution towards Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy and NHS services, the management and maintenance of the public open space and would fail to secure the provision of residential travel packs for sustainable modes of transport, required for the future occupiers of the site contrary to Policies S1, D1, H1 and I1 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.



Appeal Decision

Site visit made on 10 January 2023

by David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2023

Appeal Ref: APP/X1545/W/21/3283976

Land adjacent The Willows, Bryants Lane, Woodham Mortimer CM9 6TB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by M & D Green against the decision of Maldon District Council.
- The application Ref OUT/MAL/21/00138, dated 8 January 2021, was refused by notice dated 8 April 2021.
- The development proposed is 1 No. dwelling with carport.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Maldon District Council against M & D Green. This application is the subject of a separate Decision.

Procedural Matters

3. The name of the appellants in the banner above is taken from the planning application form rather than 'Mr & Mrs Green' as per the appeal form. In coming to this view, I have taken into account that the 2015 appeal on the site was made by Messrs M & D Green.
4. The appellant's appeal statement says that the proposal is in outline with all matters reserved except for access. The application form used, however, was for outline planning permission with all matters reserved for future determination. The Local Planning Authority (LPA) has determined the proposal on this basis and so shall I. The planning application was accompanied by plans of 'proposed elevations', a proposed block plan and a design and access statement describing a single storey dwelling with a living roof system. Given matters of layout, scale and appearance would be reserved for detailed consideration at future stage, I have considered these plans on an 'indicative' basis only in the determination of the appeal.

Main Issues

5. The main issues for the appeal are as follows:
 - i) Whether the proposal would provide a sustainable location for housing;
 - ii) The effect of the proposed dwelling on the character and appearance of the surrounding rural area; and
 - iii) The effect of the proposal on biodiversity.

Reasons

Sustainable location

6. The appeal site is in the countryside for the purposes of the development plan. The nearest settlement boundary is at Woodham Mortimer, approximately 200 metres to the south where the settlement is identified in Policy S8 of the Maldon Local Development Plan 2017 (the MLDP) as a 'smaller village'. In terms of the settlement hierarchy this is defined as a settlement containing few or no services and facilities, with limited or no access to public transport and very limited or no employment opportunities. In this context Woodham Mortimer is not identified as one of the more sustainable locations to deliver housing to meet local needs.
7. I observed that there is a public house, village hall and playing field in the village but these are some distance from the appeal site and would involve crossing the A414 which is a busy road with fast flowing traffic. There are also bus stops on the A414 to the south of the appeal site. I noted there is no shelter for westbound buses which would limit the attractiveness of using buses in this direction. Moreover, there is no safe, lit pedestrian footway along Bryants Lane to reach these bus stops, no lighting on the A414 and no continuous safe footway via Conduit Lane into the main village area of Woodham Mortimer. Given the limited services in Woodham Mortimer and the lack of footways and nature of bus infrastructure I find that future occupancy of the proposed dwelling would be highly reliant on use of the motor car. This would be contrary to securing a sustainable pattern of development in the district and the need to transition to a low carbon future.
8. I therefore conclude that the appeal proposal would not be sustainably located. It would be situated in the countryside and would not comprise a type of development that specifically warrants a countryside location. Accordingly, the proposal would be contrary to the spatial strategy and settlement hierarchy in Policy S8 of the MDLP. It would also be contrary to national planning policy on rural housing at paragraph 79 of the National Planning Policy Framework (NPPF).

Character and appearance

9. Bryants Lane is a narrow, rural byway which passes through a smattering of houses and agricultural buildings in a wider context of fields, woodland and equestrian facilities to the north of A414. This main road provides a clear delineation between the nucleus of settlement at Woodham Mortimer to the south and the countryside to the north. Accordingly, and notwithstanding the sporadic pattern of houses along Bryants Lane, the character of the appeal location is strongly rural, including the woodland directly opposite the site.
10. The appeal site is currently an area of undeveloped land nestled between a large, detached dwelling in verdant grounds to the south at 'The Willows' and generally open horse fields immediately to the north. The site is bounded by tall, large coniferous planting along its northern boundary and gappy laurel hedging to the front boundary on Bryants Lane. The appeal site provides a pleasant pocket of undeveloped land, which can be appreciated when passing it from within Bryants Lane.

11. Whilst matters of access and landscaping would be reserved for future consideration, vehicular access into the site would need to be formalised recognising that an informal arrangement currently exists with Heras security fencing in the north-east corner of the site and a rickety set of small low wooden gates is embedded into vegetation at the point indicated for access on the submitted plans. Irrespective of these existing conditions a new formal driveway entrance would alter the rural character of this part of Bryants Lane, announcing the presence of a new dwelling in the countryside. Additionally, whether the proposed dwelling is single storey and has a green roof, the physical presence of any new dwelling would be readily perceptible from within Bryants Lane, including via a new formalised access, resulting in a tangible loss of openness at the appeal site. The change in character on this rural part of Bryants Lane resulting from the encroachment of a new dwelling and associated domestic paraphernalia (bins, washing lines etc), including a new car port (as listed in the description of development applied for) would result in a harmful creeping urbanisation into what is a pleasantly rural area.
12. I observed the character of the adjacent dwelling at The Willows, which the appellant submits has been enlarged since the previous appeal decision¹ and asserts that it provides an overt residential context for the appeal proposal. Whilst The Willows is visible, in combination with the adjoining chalet bungalow dwelling at The Maples to the south, within Bryants Lane this is confined to a limited length which is characterised by a small block of development closer to the corner with the main A414 road including the entrance to the garden centre. As such I find the enlarged established dwelling at 'The Willows' provides a clear delineation to development on this part of Bryants Lane and so does not provide a basis for setting a future pattern development further north into what is a more rural part of Bryants Lane away from the influence of the A414 and main settlement at Woodham Mortimer, including at the appeal site.
13. I also observed the various buildings, fencing and lighting columns at the adjacent equestrian site immediately to the north of the appeal site. These are set behind an established native hedge and generally the openness of the site prevails such that it still functions as a notable rural gap on this part of Bryants Lane. The scale and appearance of the equestrian buildings and infrastructure on this site is not out of character in a rural location. There remains a significant open area of paddock between the appeal site and the nearest equestrian building. As such the equestrian nature of the land to the north of the appeal site does not support the introduction of a new residential building at this rural location.
14. I therefore conclude that the proposed dwelling would have a significantly harmful effect on the character and appearance of the surrounding rural area. It would be contrary to Policies S1, S8, D1 and H4 of the MDLP which collectively seek to maintain the rural character of the District, protect the intrinsic character and beauty of the countryside as a natural resource and ensure that new development respects and enhances the character and local context. Whilst detailed matters of appearance are not before me, it is reasonable to conclude that the change in the character of the site arising from the principle of a new dwelling, would not accord with NPPF paragraph 130 in terms of being a sympathetic response to local context and maintaining a

¹ APP/X1545/W/15/3004090

strong sense of place, which at this location is predominantly the rural character described above.

Biodiversity

15. The appeal site is situated a short distance from various sites of biodiversity value² and proximate to a site granted a European Protected Species licence for bats. The appeal site is also within zone of influence where net new residential accommodation would give rise to visitor pressure and recreational disturbance that would have a likely significant adverse effect on sensitive interest features of internationally designated sites³ and thus require mitigation. In response to this an Essex Coast Recreational Disturbance and Mitigation Strategy (RAMS) has identified mechanisms for mitigation, principally through a financial contribution for visitor management measures in the form an established per dwelling tariff.
16. At the time the LPA made its decision, given the proximity of local sites of biodiversity value, the lack of a preliminary ecological appraisal (PEA) formed part of the reasons for refusal. During the appeal process the appellant has submitted a PEA dated 31 August 2021 which utilises survey work carried out on 27 August 2021. The PEA reaffirms at paragraphs 1.3 and 5.5 that a RAMS contribution would be necessary in respect of mitigating an adverse impact on internationally protected sites. The PEA also recommends a lighting strategy, which could be secured by condition, should be considered in relation to the potential at the appeal site for bat commuting habitat.
17. In terms of understanding the value of the appeal site for local biodiversity I share the LPAs concerns that the timing of survey work at the end of August for reptiles and nesting birds is sub-optimal. I also share the LPAs concern regarding a lack of coordination between the PEA evidence and any assessment of the removal of trees on site. Overall, I am concerned that potential impacts on the local ecology are either understated or not yet established and therefore difficult to establish whether other forms of mitigation might be required. I therefore cannot conclude on the information before me that the appeal proposal would have an acceptable impact on local biodiversity.
18. As set out above, due to the proximity of sensitive protected habitats on the Essex coast, the appeal proposal would give rise to a likely significant effect on the qualifying features of these habitats, due to contributing to increased recreational pressure. As such I am required as part of a Habitats Regulations Assessment (HRA) to assess whether the adverse effects could be suitably mitigated. At the time of making this decision, there is no mechanism for a RAMS payment via a planning obligation before me or any alternative suggested strategy to secure effective mitigation. I have, however, considered whether the matter could be resolved by imposing a negatively worded condition to a planning permission requiring a RAMS payment prior to commencement as suggested by the appellant. The potential wording of such a condition has not been provided by the appellant or suggested by the LPA including how the process of paying any RAMS tariff via this approach would be checked and monitored. Accordingly, in the absence of any detailed or precise wording, I cannot be certain that such a condition would pass the necessary

² Summarised at paragraph 5.8.2 of the LPA officer report and shown in Appendices 1-4 of the appellants PEA

³ Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary Special Protection Area (SPA) and Ramsar site.

tests at paragraph 56 of the NPPF. In carrying out the HRA for the appeal proposal I am required to apply a precautionary approach such that given the uncertainty around the RAMS payment in the absence of a planning obligation I find that likely adverse impacts on protected habitat sites have not been demonstrated to be suitably mitigated. I am therefore unable to reach a positive HRA conclusion in this case.

19. I therefore conclude the proposal would have a harmful effect in relation to biodiversity arising from the absence of any certainty of securing necessary mitigation in relation to adverse effects on protected habitat sites on the Essex coast. There would be additional biodiversity harm arising from a lack of robust baseline evidence on local impacts given the proximity of nearby sites and species. The proposal would therefore be contrary to MDLP Policy S1 (parts 4 and 9). Furthermore, the absence of a RAMS mitigation payment would be contrary to MDLP Policy I1. On this main issue the proposal would also fail to accord with NPPF paragraph 180 which states that if significant harm to biodiversity resulting from development cannot be mitigated then planning permission should be refused. In terms of biodiversity impacts more generally, and the identified issues with the PEA, I also find the proposal would not accord with MDLP Policy S1 and NPPF paragraph 174(b) which identifies the benefits of the countryside as part of the wider natural capital.

Balance and Conclusions

20. The LPA accepts that it currently cannot demonstrate a five year supply of deliverable housing land, with the position being approximately three years⁴. Consequently, having regard to NPPF paragraph 11d), Policies S1 and S8 as most relevant policies for determining the proposal are out-of-date because the spatial strategy is not delivering the required housing need. In such circumstances there is a presumption to grant planning permission subject to the approach at NPPF paragraphs 11d i) and ii).
21. The site is within an identified zone of influence for the type of habitat sites listed at paragraph 181 of the NPPF and so footnote 7 to paragraph 11(d) i) of the NPPF is engaged. As set out above, having undertaken an HRA for this appeal proposal, in the absence of a precise and enforceable mechanism to secure mitigation it cannot be concluded, on a required precautionary basis, that the appeal proposal would avoid unacceptable harm to the qualifying features of the protected sites. In accordance with NPPF paragraph 180 this provides a clear reason for refusing the development proposal and so it would not comprise sustainable development. Accordingly, there is no requirement for a decision-taker to proceed to consider the tilted presumption in favour of sustainable development at paragraph 11 d) ii).
22. However, given the other main issues in this appeal, I have considered more widely whether the other adverse impacts identified would significantly and demonstrably outweigh the benefits. At one dwelling, the appeal proposal would only provide modest social benefits in assisting to meet the district's housing needs. Any economic benefits would be very limited in terms of both the construction phase and the scale of additional expenditure in local facilities.
23. Whilst I have found that Policies S1 and S8 are out-of-date that does not mean they are of no weight. The need to carefully manage and limit the number of

⁴ LPA reference to appeal decision APP/X1545/W/21/3283478 dated 21 March 2022

new homes in locations with relatively few sustainability credentials remains valid in the context of the environmental objectives of national and local planning policy and so I afford the harm arising from the conflict with Policies S1 and S8 significant weight. Policies D1 and H4 on protecting and enhancing local character are consistent with the NPPF and I give the harm arising from the conflict with these policies substantial weight. The identified uncertainty around local biodiversity and the conflict with Policy S1 is a moderate harm weighing against the appeal proposal. Accordingly, the various other adverse impacts identified, in addition to the harm to protected habitats, still provide a clear basis for refusing a development proposal that would be contrary to the development plan.

24. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Spencer

Inspector.



Appeal Decision

Site visit made on 15 November 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2023

Appeal Ref: APP/X1545/W/21/3285300

Knightswood Centre, Steeple Road, Southminster CM0 7BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by MSN Ventures Ltd against the decision of Maldon District Council.
 - The application Ref FUL/MAL/20/01344, dated 23 December 2020, was refused by notice dated 31 August 2021.
 - The development proposed is conversion of 2 existing buildings (previous use class C2) into 11 flats and 2 maisonettes and the construction of 3 new bungalows to the rear.
-

Decision

1. The appeal is allowed and planning permission is granted for conversion of 2 existing buildings (previous use class C2) into 11 flats and 2 maisonettes and the construction of 3 bungalows to the rear at Knightswood Centre, Steeple Road, Southminster, CM0 7BD in accordance with the terms of the application, Ref FUL/MAL/20/01344, dated 23 December 2020, subject to the conditions set out in the schedule below.

Preliminary Matter

2. The appellant has submitted an agreement with the appeal under Section 106 of the Town and Country Planning Act 1990, dated 14 April 2022 (the S106). I have taken this into account in my assessment of the appeal.

Main Issues

3. The main issues are:
 - the effect of the development proposed on the character and appearance of the area, and;
 - the effects of the development proposed on local infrastructure.

Reasons

Character and Appearance

4. The appeal site lies among a cluster of buildings which surround a crook in the line of Steeple Road, and which are in a distinctly rural setting. The surrounding area comprises open grassland and fields, and the denser pattern of development surrounding Southminster exists further to the south.
5. Other buildings within this cluster are of varying scale, form and design. Knightswood Court to the south is a retirement housing development

- comprising both single storey and two storey buildings, set among landscaped gardens and parking areas.
6. The appeal site is set on high ground and the land to the north slopes gently downwards, exposing the northern elevations of the existing buildings on the site to long views over the farmland to the north. The existing buildings on the site have undergone extensions and alterations associated with their former use and parts of the buildings consequently display a utilitarian appearance, for example through external metal staircases, fire escapes and vents to the elevations. The site is in a generally dilapidated condition as a result of its vacancy since 2017.
 7. The main brick buildings are set towards the centre of the site, behind an existing car park to the front. By contrast, the rear of the site has a more open and verdant character, created by the open garden area and smaller, timber clad outbuildings. This contributes to the gentle transition into the open countryside beyond.
 8. The new bungalows proposed at the back of the site, by reason of their footprint and width across the plot, would result in the loss of the open and verdant character at the back of the site and the loss of the transition to the open countryside beyond. While the most northern bungalow would replace an existing outbuilding, the treatment of the side elevation, which would be visible from the north, would be more domestic in its character. This would accentuate the presence of the residential accommodation at the back of the site in those long views, and would appear as encroachment of the development into the countryside.
 9. The appeal scheme would see the introduction of paraphernalia across the site, associated with its residential use. This would include two parking areas, detached cycle and refuse stores, and formal landscaping including boundary treatments within the site. However, these features are not uncommon among this cluster of buildings. Similar sized parking areas can be seen around other buildings within the immediate vicinity of the site, as can landscaping and garden features among the grounds. The bin and cycle stores would be appropriately scaled and include materials to integrate with the character of the existing buildings. While they would be visible in views from the north, they would appear as part of the cluster of existing buildings and would not appear prominent or visually intrusive. Overall, I find these additional features would not appear incongruous or at odds with the character of the surrounding area.
 10. The introduction of a communal garden to the front of the building, close to the road, may experience some visibility through the proposed landscaping to the front boundary. However, given the presence of other landscaped gardens close to the street on the nearby sites, I do not find this garden area would cause visual harm.
 11. The existing buildings would also experience changes to their facades which would result in those buildings having a more domestic appearance, including alterations to doors and windows. New balconies would be installed to the south facing elevation of the main building, however, these would be set back from the road and positioned in a recessed part of the building. As such they would not appear visually prominent.

12. In addition, the package of works proposed to the main brick buildings includes a number of alterations which would notably improve their appearance and reinstate some of their original character. This includes reinstatement of windows and removal of external items including access ramps, railings and the prominent external staircase on the north facing elevation. The alterations to the main building would also remove its physical attachment to the neighbouring building to the south, reinstating the appearance of a detached building and establishing a feeling of space between the plots.
13. Insofar as this main issue is concerned, I find that the proposed development would be compliant with the development plan with the exception of the bungalow development at the back of the site, which would cause some harm to the character and appearance of the area. This part of the development would conflict with policies D1 and H4 of the Maldon District Approved Local Development Plan (LDP) which require, among other things, that development respects and enhances the character and local context and setting. It would also conflict with Policy S8 of the LDP which seeks to protect the countryside for attributes including its landscape, intrinsic character and beauty.
14. This part of the proposals would also conflict with the objectives of the National Planning Policy Framework (the Framework) at paragraph 130, insofar as it requires development to be sympathetic to local character, including surrounding landscape setting.

Infrastructure

15. Policy I1 of the LDP requires developers to contribute towards local and strategic infrastructure and services necessary to support the proposed development. It states that a S106 contribution may be agreed to mitigate those impacts upon the local area.
16. I have considered the S106 in light of the Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 57 of the Framework, which set out the tests for planning obligations. The obligations contained in the S106 relate to the following matters:
17. Health Care Financial Contribution: Through increasing the number of homes on the site, the appeal scheme would increase demand on local health services. As part of the appeal, the NHS have commented that the local medical centre does not have capacity for the additional growth resulting from the development and is already below the recognised standards of provision. It has been adequately demonstrated, therefore, that mitigation for the impact of the development is necessary. The extent of the financial contribution has been calculated based on the additional population growth and floorspace requirements, and this demonstrates the contribution of £7,800 is fairly and reasonably related in scale and kind to the development. As such, the contribution meets the tests for a planning obligation, and the sum would be secured by the S106.
18. Affordable Housing Contribution: The Council accept in its committee report, that the appeal scheme could not make a contribution to affordable housing as this would render the scheme unviable. While this information is not before me, the Council had the scheme's viability independently reviewed and this matter is not in dispute between the main parties. Policy H1 of the LDP allows for

relaxation of the affordable housing requirement where the Council is satisfied it would render the development unviable.

19. The S106 includes a review mechanism for affordable housing provision to be reassessed during the course of the development, and inclusion of the neighbouring site in any affordable housing contribution should it be brought forward for redevelopment in the near future. However, I do not have evidence before me of a policy nor other reason that would make this necessary to make the appeal scheme acceptable in planning terms. While I appreciate the Council's concerns that the appellant may also, in the future, seek to develop the neighbouring site, I do not have substantive evidence relating to this likelihood nor a policy basis on which to include the neighbouring site within the review. As such, I am not satisfied that this requirement meets the relevant tests for an obligation.
20. Legal fee and monitoring fee: Similarly there is no evidence before me as to how the legal and monitoring fees have been calculated and I cannot be satisfied that they are fairly and reasonably related in scale and kind to the proposed development. Consequently, based on the evidence, they would not meet the required tests.
21. The Council state that the development could impact on education infrastructure, given the sizes of the units proposed. Mitigation towards education does not form part of the S106. However, the effects of the proposed development on existing education infrastructure have not been demonstrated and there is insufficient evidence to suggest that a contribution is required in order to make the development acceptable in planning terms. As such, I do not find that mitigation for education impacts would be necessary.
22. Taking the above matters into consideration, since the obligations relating to affordable housing and the Council's legal and monitoring fees fail to meet one or more of the tests set out in the CIL Regulation 122, I am unable to take them into account in determining the appeal. However, I am satisfied that the health care contribution meets the tests. This contribution complies with Policy 11 of the LDP through supporting relevant infrastructure.

Other Matters

23. The appeal site lies within the recreational 'zone of influence' for a number of Special Protection Areas (SPAs), Special Areas of Conservation (SAC) and Ramsar sites along the Essex Coast. This includes Essex Estuaries SAC, Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, and; Crouch and Roach Estuaries SPA and Ramsar site. These are sites designated under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).
24. Adopting a precautionary approach, the proposed new residential development would have a likely significant effect on the qualifying features of those designated sites through increased recreational pressures from new residents, either alone or in combination with other plans. As such, an appropriate assessment is required under the Habitats Regulations.
25. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy 2020 (RAMS) is a strategic approach which identifies measures to avoid and mitigate for the adverse effects on the integrity of the sites from recreational

disturbance in combination with other plans and projects. The RAMS details the need for mitigation from new residential developments within the zone of influence in the form of a tariff per dwelling. It goes on to detail how this relates to a strategic full mitigation package until 2038 and the specific measures and their costs. On this basis I am satisfied that such a contribution would avoid adverse effects on the protected sites.

26. The main parties agree that the required contribution, plus an associated monitoring fee, has already been paid to the Council and the Council has confirmed that it considers the adverse impacts have been mitigated. I have no reason to doubt that the contribution would be spent for the intended purpose. Consequently, I am satisfied that the development would avoid an adverse impact on the designated sites.
27. I do not have evidence of a planning reason for the appellant to demonstrate marketing of the site for community purposes. While the local roads lack a footpath link to Southminster, in light of the site's proximity to that settlement, in combination with the bus route outside the site, I do not consider the site to be in an unsustainable location, nor isolated for the purposes of the Framework. While there would likely be an increase in traffic movements, I do not have strong evidence that the residual cumulative impacts on the road network would be severe nor that there would be an unacceptable impact on highway safety. In line with paragraph 111 of the Framework, the development should not, therefore, be prevented on highways grounds.

Planning Balance

28. In terms of the main issues before me, the bungalows would cause harm to the character and appearance of the area through the encroachment of development into the open space at the back of the site. The effects would be long lasting and would be in conflict with the development plan and the Framework. To this harm I ascribe significant weight.
29. The proposed development would make a notable contribution to the Council's housing stock, as well as making a positive contribution to the national objective to boost the supply of homes. This weighs in favour of the development, particularly given the significant shortfall in the Council's housing land supply. The main parties agree this to be a brownfield site and consequently its reuse meets the objectives of paragraph 119 of the Framework relating to efficient use of land. The proposed new homes would vary in their size, including a mix of 1, 2 and 3 bedroom units, for which the Council has an identified need and which would meet the objectives of the Framework to deliver housing for different groups of the community. The homes would be in a reasonably sustainable location, as a bus service operates from outside the site, and is in close proximity to the settlement to the south.
30. In addition, the site is one which paragraph 69 of the Framework acknowledges can make an important contribution to meeting the housing requirement of an area, and can often be built out quickly. Taken together, for these reasons the proposed provision of housing is given significant weight.
31. As above, the proposal would provide other benefits to the character and appearance of the existing buildings on the site, and these are given moderate weight. In addition, the development would bring economic benefits in terms of construction jobs and ongoing local expenditure by new residents. Taken

together, and in light of the scale of the proposal, these attributes attract moderate weight.

32. The Council accepts that it does not have a five year land supply for housing and states it currently has a 2.9 year supply. As such, the provisions of paragraph 11 of the Framework are applicable to the appeal. The most important policies are deemed to be out of date and planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
33. For the reasons given above, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits. As such the presumption in favour of sustainable development applies and paragraph 11d) of the Framework states that planning permission should be granted. This is a material consideration of sufficient weight that planning permission should be granted notwithstanding the conflict with the development plan.

Conditions

34. I have considered the conditions put forward by the Council and I have had regard to the advice in Planning Practice Guidance and the Framework in respect of conditions. In addition to the time limit, I have imposed a condition requiring the development to adhere to the submitted drawings to provide clarity for the parties.
35. To ensure the site is made safe for future users, conditions are required in respect of land contamination. These need to be satisfied prior to commencement to ensure that the land is made safe before the works commence. For visual reasons, a condition is also required to ensure tree protection measures are installed. These should similarly be installed prior to the commencement of development to protect those trees from damage for the duration of the works. To ensure appropriate protections for biodiversity, ecological mitigation measures should also be secured prior to the commencement of development.
36. To protect the character of the main buildings and the area, conditions are necessary to ensure the use of appropriate materials, secure details of boundary treatments across the site and a scheme of soft landscaping and replacement of that planting where necessary. Details of hard surfaces across the site are also necessary for visual reasons and to safeguard highway safety.
37. To avoid the risk of flooding, details of surface water drainage systems and their maintenance are necessary. I do not however find that a requirement for yearly logs of maintenance of those systems meets the test of necessity or reasonableness. For environmental reasons conditions are necessary relating to ecological mitigation and enhancements, as well as external lighting across the site.
38. To protect the living conditions of nearby residents, and for environmental and highway safety reasons, a construction method and management plan is conditioned. To safeguard highway safety, conditions are imposed relating to delivery of the cycle and refuse storage facilities, the amended site accesses insofar as they lie within the application site, and delivery of parking and

turning areas shown within the submitted documents. To encourage the use of sustainable transport, a condition is imposed to ensure Travel Information Packs are issued to new residents.

39. Given the degree of mutual overlooking likely between some parts of the development, and as the windows which the Council suggests should be obscure glazed are secondary windows to the rooms they serve, I do not consider it is necessary to condition them as such. As the ground levels across the site are predominantly flat, particularly where new development is proposed at the back of the site, I do not find it necessary to condition ground levels further.
40. In the absence of evidence as to why the existing vehicular access should be removed, I do not find a condition securing its removal to meet the test of necessity.

Conclusion

41. For the above reasons, while I have identified conflict with the development plan, the approach in the Framework, along with all other relevant material considerations, indicate that planning permission should be granted. As such, the appeal is allowed.

C Shearing

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
001.00 (Site Location Plan), 002.00 (Site Block Plan), 005.00 (Existing Floor Plans), 006.00 (Existing Elevations), 007.00 (Existing Floor Plans), 008.00 (Existing Elevations), 009.00 (Existing Plans and Elevations), TP-001 (Topographical Site Plan), 300.00 (Site Layout Plan), 300.01 (Site Layout Plan), 301.01 (Proposed Floor Plans), 302.00 (Proposed Elevations), 303.00 (Proposed Floor Plans), 304.00 (Proposed Elevations), 305.01 (Proposed Plan and Elevations), 306.01 (Proposed Plan and Elevations), 307.00 (Proposed Plan and Elevations), 308.01 (Cycle/ Refuse Stores), 310.00 (Site Layout Plan).
- 3) No development shall take place, including any demolition or site clearance, until a Construction Method Statement and Management Plan has been submitted to and approved in writing by the local planning authority. This shall demonstrate: areas for parking of vehicles, areas of loading and unloading of plant and materials, storage of materials, wheel washing facilities, disposal of waste material, control of dust emissions, working hours, location and duration of noisy activities and measures to prevent pollution of ground and surface waters during construction. The development shall be carried out in accordance with the approved details.

- 4) Prior to the commencement of development on the site, tree protection measures shall be installed in full accordance with those detailed in the 'Arboricultural Impact Assessment Report' by Sharon Hosegood Associates, dated November 2020. All protection measures shall be maintained in accordance with those details throughout the duration of the demolition and construction periods.
- 5) No development shall take place, including any demolition or site clearance, until details of an ecological mitigation scheme have been submitted to and approved in writing by the local planning authority. This shall be based on up to date ecological surveys and include details of implementation timing, phasing and maintenance. The development shall be carried out only in accordance with the approved details.
- 6) No development shall be carried out (other than demolition, site clearance, removal of underground tanks and old structures) until a site investigation and risk assessment report has been carried out and submitted to and approved in writing by the local planning authority. The report findings shall include:
 - A survey of the extent, scale and nature of any contamination,
 - An assessment of the potential risks to human health, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface water, ecological systems, archaeological sites and ancient monuments;
 - An appraisal of remediation options, and the proposal of the preferred option(s).
- 7) No development shall be carried out (other than demolition, site clearance, removal of underground tanks and old structures) until details of a remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment, have been submitted to and approved in writing by the local planning authority. The details shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of land after remediation. The development shall be carried out in accordance with the approved details.
- 8) Following the completion of measures identified in the approved remediation scheme, and prior to the first occupation of any part of the site, a verification report shall be submitted to and approved in writing by the local planning authority to demonstrate the effectiveness of the remediation carried out.
- 9) Any contamination that is found during the course of construction that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These

approved schemes shall be carried out before the development is resumed or continued.

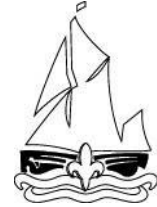
- 10) No development (other than demolition and site clearance) shall take place until details of a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, have been submitted to and approved in writing by the local planning authority. Those details should include but not be limited to:
- verification of the sustainability of infiltration of surface water for the development, based on appropriate testing;
 - limiting discharge rates to 1.3l/s for all storm events up to and including the 1 in 100 year plus 40% allowance for climate change storm event subject to agreement with the relevant third party;
 - details of relevant permissions to discharge from the site into any outfall;
 - final modelling and calculations for all areas of the drainage system including engineering drawings;
 - drainage plans showing exceedance and conveyance routes, FFL and ground levels, and location and sizing of drainage features, and;
 - details of maintenance arrangements.

The development shall be carried out in accordance with the approved details.

- 11) Development shall not commence on the construction of the new bungalows (annotated as plots 14, 15 and 16 on drawing 300.00) until details of the external materials and finishes of those buildings have been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved details.
- 12) Development shall not commence on the conversion of the existing buildings (annotated as plots 1-11, 12 and 13 on drawing 300.00) until details of external materials and finishes to be used on those buildings have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.
- 13) Prior to the first occupation of any part of the site, details of boundary treatments to be used across the site shall be submitted to and approved in writing by the local planning authority. If any gates are to be provided to the vehicular access, the details shall show them to be inward opening and set back from the highway boundary. The development shall be carried out in accordance with the approved details.
- 14) Prior to the first occupation of any part of the site, a scheme of soft landscaping for the site shall be submitted to and approved in writing by the local planning authority, with a timetable for its implementation. The development shall be carried out in accordance with the approved details and timetable.
- 15) If within a period of five years from their date of their planting any tree or plant (or its replacement) forming part of the approved landscaping

- scheme, is removed, destroyed, dies or becomes seriously damaged or defective, another tree or plant of the same size and species shall be placed in the same position.
- 16) Prior to the first occupation of any part of the development, details of hard landscaping across the site, including parking areas and accesses, shall be submitted to and approved in writing by the local planning authority. The details shall include the use of a bound surface to the vehicular access within 6m of the highway boundary. The development shall be carried out in accordance with the approved details.
 - 17) Prior to the first occupation of any part of the site, all parking areas and turning areas as shown on plan 2006930-001C (Internal Layout and Vehicle Tracking) contained within the Transport Statement by Ardent Consulting Engineers dated 2020, shall be completed and available for use. Those areas shall remain available for these purposes at all times.
 - 18) Prior to the first occupation of any part of the site, the site access shall be installed in accordance with the details shown on plan 1006930-001 (Access Plan) contained within the Transport Statement by Ardent Consulting Engineers dated December 2020.
 - 19) Notwithstanding the approved plans, prior to any occupation of the development, visibility splays from the northern access (insofar as they relate to the land within the red line of the site) shall be provided with visibility splays of 2.4m by 132m to the north and 2.4m by 49m to the south, taken from its centre line and measured along the nearside edge of the carriageway. Those splays shall be maintained free of obstruction at all times.
 - 20) Prior to the first occupation of any part of the site, all cycle parking and refuse storage facilities shall be installed in accordance with the approved plans. They shall remain available for use at all times.
 - 21) Prior to the first occupation of any part of the site, details of a Residential Travel Information Pack shall be submitted to and approved in writing by the local planning authority. This shall include six one-day travel vouchers for use with the relevant public transport operator. Prior to the first occupation of each residential unit in turn, the occupants shall be issued with such a Pack, in accordance with the approved details.
 - 22) Prior to the first occupation of any part of the development, details of ecological enhancements for the site, including measures for birds and bats, shall be submitted to and approved in writing by the local planning authority. Those approved enhancements shall be installed in accordance with the approved details within six months of their approval in writing and shall be so maintained.
 - 23) No external lighting shall be installed within the site unless details have first been submitted to and approved in writing by the local planning authority. The external lighting shall be installed only in accordance with the approved details.

End of Schedule



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
8 FEBRUARY 2023**

Application Number	22/01012/FUL
Location	Harmony Kennels, Brook house, Spar Lane, Purleigh
Proposal	Proposed single storey dwelling and cartlodge replacing existing outbuildings
Applicant	Mr John Lawrence and Ms Toni Moore
Agent	
Target Decision Date	18.11.2022
Case Officer	Vikki Bowles
Parish	PURLEIGH
Reason for Referral to the Committee / Council	Departure from the Local Plan 2017

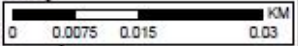
1. **RECOMMENDATION**


REFUSE for the reasons as detailed in Section 8.

2. **SITE MAP**

Please see below.

Harmony Kennels
22/01012/FUL



 <p>Copyright For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p>	Scale:	1:750
	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Not Set
	Date:	22/12/2022
	MSA Number:	100018588
www.maldon.gov.uk		

3. **SUMMARY**

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

3.1.1 The application site is located to the north of Rudley Green Lane and to the east of Spar lane, outside of any defined settlement boundary. The site is currently occupied by former kennel and stable buildings that are central to the site. There is an existing access to the application site off of Spar Lane.

3.1.2 It is noted that land to the south west of the site is also within the applicant's ownership and benefits from planning permission to construct 2No. detached dwellinghouses. These dwellings were allowed on appeal under references APP/X/1545/W/18/3201224 (2No. detached dwellings with attached garages with first floor accommodation above) and APP/X/1545/W/18/3214188 (2No. detached dwellinghouses with detached single-storey cartlodges). However, a previous application on the current site, ref: 20/00444/FUL, for a detached dwelling was refused and the subsequent Appeal dismissed.

3.1.3 Planning permission is sought for the demolition of the existing single storey structures on site and the construction of one detached dwelling with a detached cart lodge. This application is a re-submission of a previously refused application, 20/00444/FUL. The application was refused for the following reasons:

- 1 *The application site is located outside the defined development boundary of Purleigh and within the countryside where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Local Development Plan to meet the objectively assessed needs for housing in the District. If developed, the proposed development would fail to protect and enhance the character and appearance of the rural area and the built form would have an urbanising effect resulting in an unwelcome visual intrusion into the undeveloped countryside, to the detriment of the character and appearance of the rural area. The proposed development, as a result of the intended residential use would result in the domestication of the countryside to an unacceptable degree to the detriment of the character and appearance of the area. Furthermore, if developed, the site would be disconnected from the existing settlement and by reason of its location and access, it would provide poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unacceptable and contrary to policies S1, S2, S8, D2 and H4 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2018)*
- 2 *The proposed development, as a result of the design, siting, and location of the proposed dwellings and the spread of built form at the site on a partially open parcel of land, would result in an incongruous, prominent form of new development that would have an unacceptable urbanising effect by way of visual intrusion and unacceptable encroachment into the rural landscape setting. The poor sustainability credential as defined by the Framework, particularly in terms of the environmental element of sustainability, would significantly and demonstrably outweigh the benefits of the proposal when assessed against the approved policies of the Local Development Plan and the National Planning Policy Framework as a whole. The proposal would*

therefore fail to meet the requirements of policies S1, S8, D1 and H4 of the approved Maldon District Local Development Plan and the core planning principles and guidance as 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, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan and the NPPF.*
- 4 *Insufficient evidence has been submitted to show that the development would not have an unacceptable impact in terms of ecology. The proposal is therefore considered to be contrary to policy D1 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.*

- 3.1.4 A subsequent appeal, APP/X1545/W/20/3260927, was dismissed for the following reasons:

The appeal site would not be suitable for the development proposed. It would therefore fail to comply with Policies S1, S2, S8, D2 and H4 of the LDP, which taken together, establish the strategic growth requirements and settlement hierarchy for the district, and promote sustainable development.

Due to the scale and overall bulk of the proposed dwelling, I conclude that the proposal would harm the character and appearance of the surrounding environment. On this basis, it would fail to accord with Policies S1, S8, D1 and H4 of the LDP, which taken together, seek amongst other things, sustainable development which respects and enhances character and local context.

- 3.1.5 It is noted that the reasons for refusal 3 and 4 of planning application 20/00444/FUL were not supported at appeal. It is also noted that the applicants have submitted a Unilateral Undertaking (UU), however the Council has not been able to ascertain that this is legally compliant as the document was unreadable, although the checking and monitoring fee has been paid.
- 3.1.6 The proposed single storey dwelling would have a maximum ridge height of approximately 4.9 metres with an eaves height of approximately 2.3 metres, a width of 19.2 metres and a depth of 7.8 metres. The main part of the dwelling would have a hipped roof form with a central gable projection to the front and rear. The materials would be facing soft red brickwork, black weatherboard with clay pantiles to the roof. The windows would be black Upvc with an oak entrance door to the front elevation and aluminium folding or sliding doors to the rear.
- 3.1.7 The proposed cart lodge would be located to the west of the dwellinghouse and would have an approximate maximum height of 4.9 metres with an eaves height of 2.3 metres, a depth of 7.4 metres and a width of 6.5 metres.
- 3.1.8 Other works proposed are to replace the existing concrete access with one constructed of permeable materials and of an appearance befitting of the rural location of the site. However, limited details have been provided in relation to this.

3.1.9 The applicant has made changes to the proposal to try and address the reasons for refusal which are listed below:

- The proposed dwelling is single-storey as opposed to two-storey and has been reduced in height by approximately 3.4 Metres and depth by approximately 6.2 metres.
- It has increased in width by just under 2 metres.
- Reduction in palette of materials:

From	To
<u>Roof</u> Clay pan tiles Natural slate	<u>Roof</u> Clay pan tiles
<u>Walls</u> Multi stock facing brickwork Black stained timber weatherboarding	<u>Walls</u> Facing soft red brickwork Black stained timber weatherboarding
<u>Windows/Doors</u> Painted timber double glazed windows Painted timber external doors Oak main entrance door	<u>Windows/Doors</u> Black Upvc windows PPC aluminium folding/sliding doors Oak main entrance door

- Ecological appraisal has been submitted

3.2 Conclusion

3.2.1 Despite a reduction in the scale and bulk of the dwelling, the proposed development would still result in the domestication of the countryside to the detriment of the character and appearance of the area. In addition, it is considered that the site is in an unsustainable location outside of a defined settlement boundary. Therefore, the proposal is contrary to policies S1, S8, H4 and D1 of the Maldon District Local Development Plan (MDLDP) and the National Planning Policy Framework (NPPF).

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework (NPPF) 2019, including paragraphs:

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

4.2 Maldon District Local Development Plan (LDP) approved by the Secretary of State

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment

- D2 Climate Change & Environmental Impact of New
- Development
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity

4.3 Relevant Planning Guidance / Documents:

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

5. CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved Local Development Plan (LDP).
- 5.1.2 The application site is located within the countryside approximately 565 metres beyond the defined settlement boundary for Purleigh, which is the closest village to the application site. In accordance with LDP Policy S8 development is only permitted outside of settlement boundaries where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for one of the exception reasons listed in the policy. The proposal put forward does not fall within one of the exceptions listed in policy S8 and would therefore represent a departure from the LDP.
- 5.1.3 However, all planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. 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; known as the Five Year Housing Land Supply (5YHLS).
- 5.1.4 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the 'Tilted Balance'. This position is set out in paragraph 11d, together with its footnote 7, of the NPPF which states:

“For decision taking this means:

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

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

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

Footnote 8 - 8 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)

- 5.1.5 At the heart of the NPPF is a presumption in favour of sustainable development (the ‘presumption’) which is central to the policy approach in the Framework, as it sets out the Government’s policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces those Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5 year housing land supply cannot be demonstrated (*Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC* [2017] UKSC 37).
- 5.1.6 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’.
- 5.1.7 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.
- 5.1.8 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 5YHLS of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be ‘sustainable development’ through the three dimension tests of the NPPF, the LPA are obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme
- 5.1.9 The following assessment was made as part of the previous application:

Purleigh village is classed as a smaller village containing few or no services and facilities, with limited access to public transport and sources of employment. The supporting statement provided denotes the closest bus stops and shops to the site in support of the sustainability of the proposal. There are no footpaths along Spar Lane

leading to Chelmsford Road for the future occupiers of the site to safely access the surrounding amenities. Although, services and facilities would be within reasonably convenient cycling distance, the route would be unlikely to be attractive to pedestrians due to lack of footpaths and street lightings. Consequently, it is likely that future occupiers of the proposed dwellings on this site would be reliant on trips by private car for most of their day to day needs.

Based on this assessment, the location of the site would fail to discourage the use of private cars contrary to Paragraph 17 of the NPPF which sets out a core planning principle as part of the sustainability agenda, stating that planning should “actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable”. The proposal would also fail to accord with Policy T2 of the LDP.

5.1.10 Furthermore, within appeal ref: APP/X1545/W/20/3260927 the inspector stated:

I conclude that the appeal site would not be suitable for the development proposed. It would therefore fail to comply with Policies S1, S2, S8, D2 and H4 of the LDP, which taken together, establish the strategic growth requirements and settlement hierarchy for the district, and promote sustainable development.

5.1.11 There have been no changes to the site or facilities in the area which would change the stance of the Council in relation to the previous assessment and therefore, the principle of development on the application site is not acceptable.

5.2 Housing Need and Supply

5.2.1 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of two bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.

5.2.2 Policy H2 of the LDP and its preamble, which when read alongside the evidence base from the SHMA, shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two bedroom units, and around 71% of all owner occupied properties having three or more bedrooms.

5.2.3 The Council is therefore encouraged in policy H2 to provide a greater proportion of smaller units to meet the identified needs and demands. The proposal would result in a two bed dwelling being created; the proposal would contribute to the housing need by only one house and this benefit is of minimal weight in the assessment of the application,

5.3 Design and Impact on the Character of the Area

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

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

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

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

- 5.3.3 This principle has been reflected in the approved LDP. The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:
- a) *Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
 - b) *Height, size, scale, form, massing and proportion;*
 - c) *Landscape setting, townscape setting and skylines;*
 - d) *Layout, orientation, and density;*
- 5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.3.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.
- 5.3.6 The proposed dwelling has changed in size and design compared to the previous dwelling as set out in paragraph 1.2.7. The dwelling would be set back in excess of 66 metres from Spar Lane and in excess of 63 metres from Rudley Green Lane. The site is situated within what the applicants have called ‘a paddock area’ and is surrounded by open countryside. The pattern of development to the northern side of Rudley Green Road is sporadic, with the majority of development at the junction with Chelmsford Road. Properties along Spar Lane generally have set backs between 6 metres (Bramley Cottage) and 9 metres (Gardeners Cottage). The location of the proposed dwelling in itself is considered to be in a backland location that would intrude into the open countryside and is not reflective of the existing pattern of development from either road. Therefore, the introduction of a new dwelling and the associated residential paraphernalia would result in a shift in appearance of the site to a wholly residential use. Policy S1 of the LDP states that the countryside should be protected, including its natural beauty, tranquillity and distinctiveness and it is essential that any new development does not cause harm to these features of the landscape and rural environment.
- 5.3.7 It is noted that the Inspector found there would be no unacceptable visual impact in relation to Appeals APP/X/1545/W/18/3201224 and APP/X/1545/W/18/3214188. However, the location of the development which was the subject of these appeals, as stated above, is materially different and therefore, little weight is given to the

Inspector's findings in the assessment of this application. Further, in relation to the dismissed appeal for the previous application on the application site, the Inspector found that the location of the appeal site is such that the proposal would be somewhat visually removed from other existing dwellings when viewed from Spar Lane, including the dwellings recently allowed at appeal. He states that the proposal would have the effect of appearing to extend the built form into the open countryside to the detriment of the pattern of development.

- 5.3.8 Whilst there is existing built form at the application site, including stables and single storey buildings used in relation to the use as kennels, such buildings are a common feature within the countryside and would be read in context within the surrounding area. The single storey buildings are not of the same scale or design of the development the subject of this application. The proposed dwelling would represent a detached property with a detached cartlodge which would urbanise the site to the detriment of the visual amenity of the rural area. Whilst it is acknowledged that the scale of the proposed development has been reduced, due to its backland location and projection beyond existing dwellings in the area, the proposal would result in an unacceptable sprawl of development within the countryside. This is further exacerbated by the introduction of formal boundaries which would lead to additional urbanisation of the plot.
- 5.3.9 It is noted that the external materials of the development are similar to those commonly found within the countryside. However, due to the concerns as mentioned above, this, of itself, would not overcome the impact proposal on the character and appearance of the open countryside.
- 5.3.10 Taking into account the above, the development of the site would introduce residential development, paraphernalia and urban sprawl into the countryside to the detriment of its character and appearance, and the general settlement pattern of the area contrary to policies S1, S8, D1 and H4 of the LDP.

5.4 Impact on Residential Amenity

- 5.4.1 The basis of Policy D1 of the LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by Section C07 of the MDDG (2017). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.
- 5.4.2 Land to the south west of the application site benefits from permission to construct two detached dwellings. The proposed dwelling would sit 12.4 metres from the shared boundary with the northern dwelling and over 50 metres from this property. Due to this substantial degree of separation, it is not considered that the proposed dwelling would result in an overbearing impact on this neighbouring property or that it would result in an unacceptable loss of light to these neighbouring occupiers. Furthermore, the proposal is a single-storey dwelling and therefore, there are no concerns in relation to a loss of privacy to this neighbouring property.
- 5.4.3 Therefore, it is not considered that the development would represent an unneighbourly form of development or give rise to overlooking or overshadowing, in accordance with the stipulations of 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.

5.5.2 The proposed development would result in a two-bedroom property and therefore, the minimum parking provision required on-site is between one and two spaces. There is adequate hardstanding to the front of the site to accommodate parking provision for at least three vehicles alongside the proposed cartlodge. Therefore, there are no concerns in relation to parking.

5.5.3 The proposed development would utilise the existing access to the site it is considered that the intensification of the access and roadway by the proposed development would not result in a detrimental impact on highway safety of the free flow of traffic and is therefore in accordance with the LDP.

5.6 Private Amenity Space and Living Conditions of the Future Occupiers

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

5.6.2 The proposed development would be a two-bedroom property and would therefore require a private amenity space of at least 50m², due to the spacious nature of the site, the property would benefit from an amenity space in excess of this requirement and therefore, there are no concerns in relation to this aspect.

5.6.3 The block plan provided denotes that to the southern and eastern boundaries a 1.2-metre-high post and wire fence would be constructed with a native mixed thorn hedge to be planted on the 'field side', it is also proposed that new native hedging to the northern boundary would be planted, replacing G2 cherry plum. There are no concerns in relation to the proposed boundary treatments. Further details in relation to ensuring the planting scheme is implemented could be secured via condition should the application be approved. Furthermore, the proposal includes the replacement of the existing access materials with a permeable material, although, insufficient information has been provided as part of this application. However, should the application be approved, this information could be secured via condition.

5.7 Ecology

5.7.1 The NPPF states that if significant harm to priority habitats and species resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.

5.7.2 Due to the rural nature of the site, the removal of existing structures, the number of trees at the site and the native hedging an ecology report has been submitted. The report noted that it was possible that bats would utilise the tree line on the northern perimeter of the site. However, no active or inactive badger setts were found and it was not considered reasonably likely that reptile or great crested newt species would be adversely affected by the development proposals. Having consulted with Place Services there is sufficient ecological information and there is no objection to the proposal subject to conditions to ensure bio-diversity net gain

5.8 Ecology regarding development within the zone of influence (ZOL) for the Essex Coast RAMS

- 5.8.1 Paragraph 170 of the NPPF states that *'Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity.'*
- 5.8.2 Strategic LDP policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.8.3 In terms of off-site impacts, Natural England (NE) has advised that this development falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council (MDC), working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. NE advise that MDC must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.
- 5.8.4 NE has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'Zol' of these sites cover the whole of the Maldon District.
- 5.8.5 NE anticipate that, in the context of the LPA's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these Zol constitute a likely significant effect on the sensitive interest features of these designated site through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), Houses in Multiple Occupation (HMOs), student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.8.6 Prior to the RAMS being adopted, NE advise that these recreational impacts should be considered through a project-level HRA – NE has provided a HRA record template for use where recreational disturbance is the only HRA issue.
- 5.8.7 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, NE does not provide bespoke advice. However, NE's general advice is that a HRA should be undertaken and a 'proportionate financial contribution should be secured' from the developer for it to be concluded that the development proposed would not have an adverse effect on the

integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s) targeted towards increasing the site's resilience to recreational pressure and in line with the aspirations of emerging RAMS and has currently been set at £ 137.71 per dwelling.

- 5.8.8 To accord with NE's requirements, a Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, as follows:

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

Is the development within the Zol for the Essex Coast RAMS with respect to the previously listed sites? Yes

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

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

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

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

Summary of Appropriate Assessment - as a competent authority, the 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, mitigation, in the form of a financial contribution of £137.71 is necessary. Whilst signed S106 unilateral Undertaking has been submitted, the Council has been unable to verify this as it is currently in an unreadable format. Nevertheless, a payment has been made to secure the S106 to cover the checking and monitoring fee.

- 5.8.9 Therefore, subject to satisfactory checks, it is considered that mitigation has been secured in accordance with policies S1, D1, N1 and N2 of the LDP and Government advice contained in the NPPF.

5.9 Other Matters

- 5.9.1 Within the NPPF there is a presumption in favour of sustainable development (the 'presumption') which is central to the policy approach in the Framework, as it sets out the Government's changes to the planning system and emphasises the need to plan positively for appropriate new development. In this regard, there are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. This is carried through to local policies via policy S1 of the LDP which emphasises the need for sustainable development.
- 5.9.2 In economic terms, given that the development is for a single unit, the benefits would be extremely limited given the scale of the development. Equally, there is no guarantee that the construction works would be undertaken by local businesses, the economic benefits of the proposal are therefore considered minimal. Due to the limited provision of local businesses, shops and services and the minor nature of the development there would be a limited increase in footfall or economic benefit to the area.

- 5.9.3 In social terms, development should assist in supporting a strong vibrant and healthy community. The application site lies in excess of 500 metres from the defined development boundary of Purleigh. It is noted that there are three bus stops within the vicinity of the application site (approximately 0.16km, 1.13km and 1.5km) with regular access to Chelmsford, Maldon and Southminster. To access this, residents would have to walk along Spar Lane which is a single track, unlit road without a footway. As such, the site is remote from services needed for day to day living and any future occupiers of the site would be heavily reliant on the use of private vehicles to access everyday facilities contrary to the guidance contained within the NPPF and policies S1, S8 and T1 of the LDP.
- 5.9.4 In environmental terms the inaccessible location would not help to reduce reliance on private vehicles. In addition, the dwelling would have an unacceptable impact on the character of the area.
- 5.9.5 Overall, due to the concerns raised, it is not considered that there are any benefits that would outweigh the concerns. The development cannot therefore be found to be sustainable.

6 ANY RELEVANT SITE HISTORY

Application Number	Description	Decision
62/00097/MAR	Demolish existing – construct shop/café	Refused
62/00347/MAR	3 detached bungalows	Refused
63/00543/MAR	Outline- Kenneling for dogs	Approved
63/00543/1/MAR	Details – Kenneling for dogs	Approved
64/00539/MAR	Demolish existing – erect new dwelling	Refused
70/00396/MAR	Caravan – Expired 31.12.1971	Approved
78/00960/MAL	Site Caravan	Refused
85/00322/MAL	2 Bungalows	Refused
85/00824/MAL	Replacement Kennels Agricultural condition	Approved
85/00824/A/MAL	Amended Plans	Approved
85/00824/B/MAL	Relocation of Kennel building	Approved
20/00444/FUL	New two storey dwelling and cartlodge	Refused

7 CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Purleigh Parish Council	The development would improve the appearance of a brownfield site	This is not a material consideration

7.2 Statutory Consultees and Other Organisations

Name of External Consultee	Comment	Officer Response
Essex County Highways	No objection subject to conditions	Noted
Ecology – Place Services	No objection subject to conditions	Noted
Tree Consultant	Sufficient detail has not been provided to demonstrate how these trees will be suitably	Noted

Name of External Consultee	Comment	Officer Response
	protected from construction pressures, during the build or landscaping. Also soft landscape scheme should be provided. Should the application be approved these could be secured via condition.	

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	The planning statement dismisses the necessity for a contamination assessment however it is considered a Phase 1 Desk Study should be submitted as a minimum. No objection subject to conditions	Comments noted

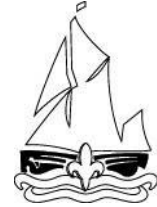
7.4 Representations received from Interested Parties

- 7.4.1 No letters of representation have been received in relation to the proposed development.

8 REASONS FOR REFUSAL

1. The application site is located outside the defined development boundary of Purleigh and within the countryside where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Local Development Plan to meet the objectively assessed needs for housing in the District. If developed, the proposed development would fail to protect and enhance the character and appearance of the rural area and the built form would have an urbanising effect resulting in an unwelcome visual intrusion into the undeveloped countryside, to the detriment of the character and appearance of the rural area. The proposed development, as a result of the intended residential use would result in the domestication of the countryside to an unacceptable degree to the detriment of the character and appearance of the area. Furthermore, if developed, the site would be disconnected from the existing settlement and by reason of its location and access, it would provide poor quality and limited access to sustainable and public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unacceptable and contrary to policies S1, S2, S8, D2 and H4 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2018)

2. The proposed development, as a result of the design, siting, and location of the proposed dwellings and the spread of built form at the site on a partially open parcel of land, would result in an incongruous, new development that would have an unacceptable urbanising effect by way of visual intrusion and unacceptable encroachment into the rural landscape setting. The poor sustainability credential as defined by the Framework would significantly outweigh the benefits of the proposal when assessed against the approved policies of the Local Development Plan and the National Planning Policy Framework as a whole. The proposal would therefore fail to meet the requirements of policies S1, S8, D1 and H4 of the approved Maldon District Local Development Plan and the core planning principles and guidance as contained within the National Planning Policy Framework.



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
08 FEBRUARY 2023**

Application Number	TPO 08/22
Location	Mill House, Maldon Road, Langford, CM9 4SS
Proposal	Confirmation of TPO 08/22
Owners	Richard Andrew Perry – Mill House Maldon Road Langford CM9 4SS
Confirmation by	24.04.2023
Case Officer	Jade Elles
Parish	LANGFORD
Reason for Referral to the Committee	Decision for confirmation of a Tree Preservation Order under the Council's Scheme of Delegation

1. **RECOMMENDATION**

CONFIRM Tree Preservation Order (TPO) 08/22 without any modifications

2. **SITE MAP**

Please see below.



3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 In September 2022, the Council received notification under section 211 of the Town and Country Planning Act 1990, to undertake works to a tree within a Conservation Area. It was proposed to fell a Weeping Willow Tree and 7 Black Alder Trees located on the boundary of the site to the rear. In addition it was also proposed to replace the trees with 1 Weeping Willow and 7 Black Alder Trees. Due to the replacement trees not being enforceable under the terms of section 211 of the Town and Country Planning Act 1990 and the trees having amenity value the Council's Tree Consultant objected to the works for this reason. The Council agrees with the Tree Consultant's comments and that the removal of the trees would materially impact on the amenity of the area. Therefore, a Tree Evaluation Method for Preservation Orders (TEMPO) assessment, which is a professionally and nationally accepted system of scoring the amenity value of a tree, was carried out. The TEMPO, assessment scored the trees 18 out of 25 and concluded that the Weeping Willow tree and the 7 Black Alder trees were worthy of a Tree Preservation Order (TPO). Therefore, a TPO was served on 24 October 2022.

3.1.2 One letter of objection has been received relating to the serving of TPO 08/22 which is located on the rear boundary of Mill House.

3.1.3 The objection remains unresolved; therefore, the question of whether or not to confirm the TPO has been brought before members to determine.

3.2 The site

3.2.1 The Weeping Willow tree and 7 Black Alder trees are located on the rear boundary of Mill House, to the north of the site and can be seen within the neighbouring church and highway. Due to their location, it is considered the trees have amenity value.

3.2.2 The trees are within the property of Mill House, Maldon Road, Langford, which is known to be owned by Mr Richard Andrew Perry.

4. MAIN RELEVANT POLICIES

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

4.1 Corporate Plan 2019-2023:

1. Strategic Themes: The Environment - protected and improved environment for residents and visitors. Partnership working to protect our countryside and coastline.

4.2 Relevant Planning Guidance / Documents:

- Planning Practice Guidance (PPG)

4.3 Government Guidelines:

4.3.1 Government guidelines advise that: the Local Planning Authority (LPA) is required to take into account all duly made objections and representations before deciding whether to confirm the TPO.

4.3.2 If Members decide to Confirm TPO 08/22, the owners have the right to make an application to the High Court to challenge the validity of the TPO. There are specific grounds on which this application must be made:

1. that the TPO is not within the powers of the Act, or
2. that the requirements of the Act or Regulations have not been complied with in relation to the TPO.

4.3.3 There are costs involved in this procedure which can be awarded. An application must be made within six weeks of the date the TPO was confirmed.

5. MAIN CONSIDERATIONS

5.1 The T1 Weeping Willow and G1 7 Black Alder trees are located along the northern rear boundary of Mill House in Maldon Road, Langford. Due to their location, they are visible within the public realm and along the wider streetscene and are considered to have amenity value, adding to the character and appearance of the surrounding area, which is within a Conservation Area.

5.2 Planning Practice Guidance states (Paragraph 10 reference ID: 36-010-21040306) *'it may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.'* As part of the Section 211 notice regarding the felling of the Weeping Willow tree and the 7 Black Alder trees, the applicant claims that the trees are leaning 30-90 degrees to the north and additionally the Black Alder trees are spindly and in poor condition mainly caused by swamping from a collection of Leylandii trees which has caused them to grow towards the sunlight. However, no suitable Arboricultural evidence or further supporting information has been provided to demonstrate that the Black Alder trees are in poor condition. The applicant has stated he would replace these trees, but the Council cannot enforce the trees to be replaced unless they are protected. Therefore, the proposed works under the Section 211 notification were not considered to be suitably justified.

5.3 In the interest of protecting this prominent landscape feature and the amenity value of these trees within the locality, the Weeping Willow tree and the 7 Black Alder trees were assessed using the TEMPO which is designed as a guide to decision making and stands as a record that a systematic assessment has been undertaken. The TEMPO considers all of the relevant factors in the TPO decision making chain including amenity assessment, expediency assessment and decision guide. Within the assessment the trees scored satisfactory for the suitability of a TPO for their amenity due to their size and location which are visible within the public realm. The expediency assessment reflected the immediate threat of the trees as mentioned in section 5.2. The trees scored an overall total 18 out of 25 which means that the trees would definitely merit a TPO.

5.4 It is worth noting that the guidance provided to sit alongside the TEMPO assessment acknowledged that the reason for serving the TPO can be quite minor (precautionary only). However, as the enquiry was to fell the Weeping Willow and Black Alder trees,

it is considered by the Council that this goes beyond a precautionary threat as the threat to the trees was immediate.

- 5.5 It should be noted that the TPO would not prevent works to the trees from being carried out, however it would control any such works to ensure that they were suitable, justified and did not harm the health of the trees or the amenity value they offer to the surrounding area. Furthermore, TPOs can serve as a useful control by securing and protecting replacement planting which is not an option under a Section 211 notification. It is considered relevant to note that whilst no suitable Arboricultural justification to remove the trees has been provided under this application, a subsequent Section 211 application could be submitted with such justification and without a TPO in place, the LPA would be unable to secure the replacement of such an important landscape feature.

6. ANY RELEVANT SITE HISTORY

22/00396/TCA – T1-T17 Leylandii Cypress - Fell and replace them to the rear boundary with 17 trees comprising of 5 Oak trees, 10 Sycamore trees and 2 Willow trees – Allowed to Proceed

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Interested Parties

- 7.1.1 1 letter from Sharon Hosegood Associates was received on behalf of the owner, **objecting** to the serving of the TPO 08/22 and the reasons for objection are summarised in the table below:

Objection Comment	Officer Response
<p>The Weeping Willow is in early maturity and leans very heavy north due to the suppression caused by the nearby Alder trees. It also has a highly asymmetric crown and a slight bulge at the root plate indicating that it has moved due to weight and may be structurally compromised. As the tree matures it will become heavier placing a strain on the roof plate and there is an increased risk of the tree falling onto the neighbouring property and breaking the fence. It is highly inappropriate to protect a tree in this condition with a TPO.</p>	<p>Comments noted, due to the nature of the works under the S211 notice it was considered expedient to serve a TPO on the tree to prevent unnecessary and unjustified works. Further addressed in section 5 of the report.</p>
<p>The Alder trees – one is topped and leans heavily and the remaining Alders are tall, spindly trees which lean and are swamped with ivy.</p>	<p>Comments noted. due to the nature of the works under the S211 notice it was considered expedient to serve a TPO on the tree to prevent unnecessary and unjustified works. Further addressed in section 5 of the report.</p>

8. CONCLUSION

- 8.1 The Weeping Willow tree and Black Alder trees, the subject of the TPO make a contribution to the amenity value and is visible within the streetscene. Given that the tree has a TEMPO score of 18, it is considered that the TPO should be confirmed to

prevent the loss of this tree without securing appropriate replanting, which could harm the amenity value of the Conservation Area.

