

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

DIRECTOR OF STRATEGY AND
RESOURCES
Paul Dodson

05 September 2023

Dear Councillor

You are summoned to attend the meeting of the;

NORTH WESTERN AREA PLANNING COMMITTEE

on **WEDNESDAY 13 SEPTEMBER 2023 at 7.30 pm**

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

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A copy of the agenda is attached.

Yours faithfully



Director of Strategy and Resources

COMMITTEE MEMBERSHIP:

CHAIRPERSON	Councillor M F L Durham, CC
VICE-CHAIRPERSON	Councillor M E Thompson
COUNCILLORS	J C Hughes S J N Morgan C P Morley R H Siddall E L Stephens S White L L Wiffen





AGENDA
NORTH WESTERN AREA PLANNING COMMITTEE
WEDNESDAY 13 SEPTEMBER 2023

1. **Chairperson'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 16 August 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. **23/00123/OUTM - Land Rear of 9 Church Road, Wickham Bishops** (Pages 13 - 70)

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

6. **23/00024/FUL - Slate Hall Cottage, Lower Burnham Road, Stow Maries, CM3 6SG** (Pages 71 - 82)

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

7. **23/00592/VAR - Land at the Summer House, Back Lane, Wickham Bishops** (Pages 83 - 92)

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

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

Note:

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

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

NOTICES**Recording of Meeting**

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

Fire

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Health and Safety

Please be advised of the different levels of flooring within the Council Chamber.

Closed-Circuit Televisions (CCTV)

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

Lift

Please be aware, there is not currently lift access to the Council Chamber.

BACKGROUND PAPERS

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

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

Development Plans

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

Legislation

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

Supplementary Planning Guidance and Other Advice

i) Government policy and guidance

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

Supplementary Planning Guidance and Other Advice (continued)

ii) Essex County Council

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

iii) Maldon District Council

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

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

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**MINUTES of
NORTH WESTERN AREA PLANNING COMMITTEE
16 AUGUST 2023**

PRESENT

Chairperson	Councillor M F L Durham, CC
Vice-Chairperson	Councillor M E Thompson
Councillors	J C Hughes, S J N Morgan, C P Morley, R H Siddall, E L Stephens, S White and L L Wiffen

1. CHAIRPERSON'S NOTICES

The Chairperson welcomed everyone present and went over some general housekeeping arrangements for the meeting.

2. APOLOGIES FOR ABSENCE

There were none.

3. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 21 June 2023 be approved and confirmed.

4. DISCLOSURE OF INTEREST

There were none.

5. 23/00121/FUL - LAND AT POPLAR GROVE FARM, POPLAR GOVE CHASE, GREAT TOTHAM, ESSEX

Application Number	23/00121/FUL
Location	Land at Poplar Grove Farm, Poplar Grove Chase, Great Totham, CM9 8NX.
Proposal	Proposed residential development of 9 dwellings
Applicant	Jennifer Phillips
Agent	Miss Nicole Bushell
Target Decision Date	25 August 2023 (EOT date)
Case Officer	Lisa Greenwood
Parish	GREAT TOTHAM
Reason for Referral to the Committee / Council	Called in by ex-Councillor J V Keyes with regard to Policies S1, S2, S3, D1, E4, H2 & H4.

Following the Officers presentation, Mrs L Beales, an Objector, addressed the Committee. The Chairperson opened the floor for debate.

Councillor M E Thompson proposed to refuse the application in accordance with the Officer's recommendation, this was duly seconded.

Following a brief discussion, the Chairperson put the proposal to refuse the application to the Committee and when put to a vote was agreed.

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

1. The site is located outside of a defined settlement boundary where rural policy constraints apply. By virtue of the layout of the existing built form and the relationship of the site to the development to the north, south, and east of the site, the excessive height of the dwellings proposed, and the introduction of a new access road, parking areas, and domestic paraphernalia, the development would appear as a visually prominent and incongruous form of development that would urbanise the site and cause harm to the intrinsic character and beauty of the open countryside. The proposal has not considered the context within which it will sit, and a development of this quantum is not acceptable. The proposal is therefore contrary to Policies S1, S2, S8, D1 and H4 of the Maldon District Local Development Plan (2017), Policies GT01 and GT02 of the Great Totham Neighbourhood Development Plan (2022), and the policies and guidance contained in the National Planning Policy Framework (2021).
2. The cumulative Gross Internal Area of the proposed dwellings and garages exceeds 1000 square metres. All developments of more than 1000 square metres will be expected to contribute towards affordable housing. The proposal is for 9no. market dwellings and does not provide for any affordable units. The proposal is therefore contrary to Policy H1 of the Maldon District Local Development Plan (2017), the Council's Affordable Housing Supplementary Planning Document (2019), and the policies and guidance contained in the National Planning Policy Framework (2021).
3. The proposal has been found to cause less than substantial harm to the significance of Poplar Grove Farmhouse, a grade II listed building, through the urbanisation of one of the last remnants of its agricultural setting. In accordance with Paragraph 202 of the NPPF (2021), such harm must be weighed against the public benefits of the proposal. The public benefits of the scheme do not outweigh the harm caused and the proposal is not acceptable in this regard. The proposal is therefore contrary to Policies S1, D1 and D3 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).
4. Insufficient information has been submitted to demonstrate that the proposal would be acceptable in terms of highway safety and efficiency in relation to the proposed new access at Broad Street Green Road. The proposal is contrary to the policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance (February 2011), Policy T2 of Maldon District Local Development Plan (2017) and the policies and guidance within the National Planning Policy Framework (2021).
5. 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 the 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 (2017) and the policies and guidance within the National Planning Policy Framework (2021).

6. **23/00220/OUTM - LAND WEST OF CROWN ROAD, COLD NORTON, ESSEX**

Application Number	23/00220/OUTM
Location	Land West of Crown Road, Cold Norton
Proposal	Outline planning application with all matters reserved apart from access, for residential development (up to 14 dwellings), vehicle circulation and parking, hard and soft landscaping and associated development.
Applicant	Mr Mike Spurgeon – Phase 2 Planning
Agent	SLA Property Limited
Target Decision Date	26.07.2023
Case Officer	Devan Hearnah
Parish	COLD NORTON
Reason for Referral to the Committee / Council	Major Application Member Call In – ex-Councillor J L Fleming (D2, S1, S2, S8, T2)

It was noted from the Members' Update that since the agenda had been published further responses from consultees had been received.

Following the Officers presentation, Mr Spurgeon, the Applicant, addressed the Committee. The Chairperson opened the floor for debate.

Councillor S White proposed to refuse the application in line with the Officers' recommendation, this was duly seconded.

There being no further discussion the Chairperson put the proposal to the Committee and when put to a vote was agreed.

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

- 1 The provision of fourteen dwellings on this site and associated works, outside the defined settlement boundary of Cold Norton would fail to protect or enhance the natural beauty, tranquillity, amenity and traditional quality of the rural landscape setting by introducing unacceptable built form into the site and be likely to cause a loss of landscaping that currently forms an integral part of, and contributes to, the rural quality of the area. The proposal would therefore fail to make a positive contribution to the locality and cause an unacceptable degree of harm to the character and appearance of the locality and represent unwarranted development within the countryside contrary to policies S1, S8, D1 and H4 of the Local Development Plan and core planning principles and guidance contained in the National Planning Policy Framework.
- 2 It has not been demonstrated that an appropriate visibility splay can be achieved for the speed of the road at the access from Crown Road onto Latchingdon Road. Further, the application does not include any details of the location of Public Footpath no. 20 (Cold Norton) or any priority or suggested improvements for pedestrian movements along Crown Road, for uses of the public footpath. The development would intensify the current conflict between vehicles and pedestrians using the footpath, which would create deterioration of the footpath as a public right of way. The application also fails to demonstrate that appropriate measures would be provided to improve and promote cycling and walking from the development along Crown Road. The proposal would be therefore would not provide a suitable and safe access for all users and would result in an unacceptable degree of hazard to all road users to the detriment of highway safety and contrary to the National Planning Policy Framework and policies, S1, D1, T1 and T2 of the Maldon District Local Development Plan (2017), and guidance contained within the Maldon District Design Guide (2017).

- 3 The proposed development has a potential significant impact upon protected species. Insufficient information has been submitted to allow the Local Planning Authority to determine that the proposed development would not have significant impact on these features, or the significant impact is such that it can be mitigated or compensated in a satisfactory way. The development is therefore unacceptable and contrary to policies S1, D2 and N2 of the Local Development Plan as well as 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 proposal includes inadequate provision to secure the delivery of affordable housing to meet the identified need in the locality, address the Council's strategic objectives on affordable housing and supporting a mixed and balanced community, contrary to Policies S1, H1 and I1 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.
- 5 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the necessary the provision of any necessary contribution towards health care provision the impact of the development cannot be mitigated contrary to Policies S1, D1, N1, N3, I1 and T2 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.
- 6 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1 and I1 of the Maldon District Local Development Plan and the NPPF.

At this point Councillor M E Thompson requested a short adjournment for a comfort break, the Chairperson agreed for a five-minute adjournment.

7. ADJOURNMENT OF THE MEETING

RESOLVED that the meeting be adjourned at 8:01pm to allow Members to have a comfort break.

8. RESUMPTION OF BUSINESS IN OPEN SESSION

RESOLVED that the meeting resumes in open session at 8:04pm.

9. **23/00332/FUL - LAND ADJACENT TO HONEYWOOD FARM, HONEYPOT LANE, PURLEIGH, ESSEX**

Application Number	23/00332/FUL
Location	Land adjacent to Honeywood Farm, Honeypot Lane, Purleigh, CM3 6RT
Proposal	Section 73A application for the construction of 6 office units
Applicant	Mr A Brown - Honeywood Holdings Ltd
Agent	M. Foley of Stanfords
Target Decision Date	23.06.2023
Case Officer	Jonathan Doe
Parish	COLD NORTON
Reason for Referral to the Committee / Council	Member Call in by Councillor S White with regard to Policies S1, S7, S8 and E3

Following the Officer's presentation, the Chairperson opened the floor for debate.

Councillor S White disclosed that she knew the applicant and that they were a Member of Stow Maries Parish Council. Councillor White then went on to propose to approve the application in line with the Officers recommendation which was duly seconded.

There being no further discussion the Chairperson put the proposal to the Committee and when put to the vote this was agreed.

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

- 1 The development hereby permitted shall be retained in complete accordance with approved drawings:
Site Location Plan
 - Block Plan
 - MRF – 46594-01 – Floor Plan
 - MRF – 46594-02 – Elevations
 - MRF – 46594-03 – Roof Plan
 - Planning Statement
- 2 The premises shall only be used as E(g) purposes and for no other purpose including any purpose as defined within Class E of the Schedule to the Town & Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) and for no other purpose.
- 3 Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended), (or any Order amending, revoking or re-enacting that Order), no extension, separate building or alteration shall be erected within the site without planning permission having been obtained from the Local Planning Authority.
- 4 Within three months of the date of this decision 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:

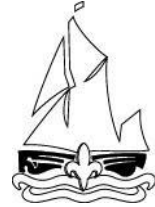
- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;

e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details within six months of the date of written approval of such details and shall be retained in that manner thereafter.

There being no other items of business the Chairperson closed the meeting at 8.15 pm.

M F L DURHAM, CC
CHAIRPERSON



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
13 SEPTEMBER 2023**

Application Number	23/00123/OUTM
Location	Land Rear of 9 Church Road Wickham Bishops
Proposal	Outline planning permission with the matters of access for consideration for the demolition of 9 Church Road, creation of new access and the development of up to 50 dwellings including associated car parking, open space and landscaping
Applicant	Mr M Tentori – Mazdev Ltd
Agent	Mr Mark Schmull – Arrow Planning Ltd
Target Decision Date	23.08.2023 (EOT 27 September 2023)
Case Officer	Devan Hearnah
Parish	WICKHAM BISHOPS
Reason for Referral to the Committee / Council	Major Application Departure from the Local Plan Member Call In – Councillors M F L Durham CC and S J N Morgan (policies S1, S8, D1 and H4)

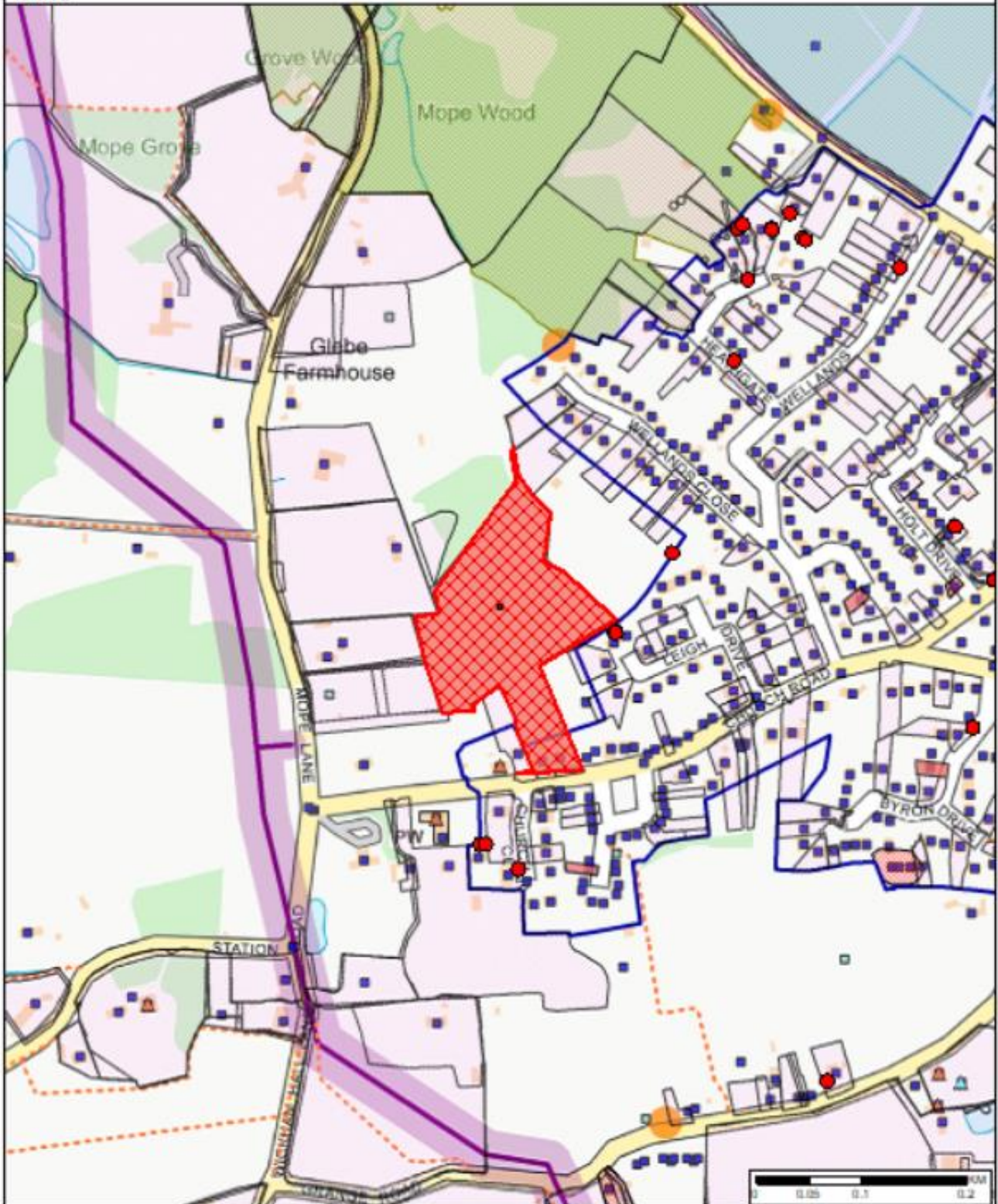
1. RECOMMENDATION

APPROVE subject to the applicant entering into a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the planning obligations and subject to conditions as detailed in Section 9.

2. SITE MAP

Please see below.

23/00123/OUTM
NWAC



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Not Set
	Date:	29/03/2023
	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Site Description

- 3.1.1 The application site is located to the north of Church Road to the west side of Wickham Bishops. The site is occupied by a detached bungalow and several outbuildings at its frontage to Church Road, but mainly consists of grassland with a number of mature trees. The bungalow, its outbuilding and curtilage are located within the settlement boundary, the remainder of the site to the north lies outside of the settlement boundary as defined under Policy S8. The bungalow at No. 9 Church Road is accessed directly from Church Road. The remainder of the site to the rear of No. 9 Church Road is currently accessed via a private drive which runs between No. 9 and No.11 Church Road.
- 3.1.2 An overhead power line crosses part of the eastern half of the site, running in a north / south direction. A watercourse runs along a section of the eastern boundary and continues to the north east of the site towards the rear of the nearby residential gardens. Beyond the ditch to the north east sits a large area of grassland, and a large outbuilding. There are trees to the northern and eastern boundary of the site. The site gradient is uneven across the site and is higher to the west where the land slopes gently to the north and north east.
- 3.1.3 The site is surrounded on three sides by existing residential development. It is bounded by the rear of residential dwellings on Church Road to the south, Mope Lane to the west, Leigh Drive to the east, with an area of an open field to the north. The area of the site measures approximately 2.45 hectares.
- 3.1.4 The surrounding residential areas features an eclectic mix of dwellings, in terms of both their appearance and scale. Plot sizes of those dwellings in Mope Land are substantially larger than those within Church Road and Leigh Drive, as are the dwellings that occupy those plots. The majority of nearby properties consist of two storey detached dwellings. To the south west of the site is the cemetery, with the listed Church of Saint Bartholomew on the opposite side of Church Road.
- 3.1.5 The application site also adjoins the rear of Abbots, No.3 Church Road, which is a Grade II Listed Building.

Proposal

- 3.1.6 Outline planning permission is sought for the demolition of No. 9 Church Road and to construct up to 50 dwellings with associated car parking, open space and landscaping. The matters for consideration are the principle of the development and 'access,' with the 'layout', 'appearance', 'landscaping' and 'scale' forming the Reserved Matters for subsequent approval.
- 3.1.7 In relation to the above it should be noted that the Town and Country Planning (Development Management Procedure) (England) Order 2015 defines access in relation to Reserved Matters as being:

'the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where "site" means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made'

- 3.1.8 It is also therefore, considered that the internal roads form part of consideration of this application.
- 3.1.9 The proposed development would be accessed from the north side of Church Road, which as detailed above requires the demolition of No. 9 Church Road. Plan 06327-TR-0001-P5 has been submitted which shows the access details to the site in the form of a priority junction with footways either side of the carriageway. The footpaths would extend both to the east and west of Church Road and tactile paving would be laid to indicate the end of the footway both outside the site on Church Road as well as within the site itself. The Plan also shows the provision of a footpath on the southern side of Church Road which will adjoin the existing footpath on Church Green.
- 3.1.10 The Indicative Masterplan (Drawing No: P22-3185_DE_001_01X dated January 2023) shows the demolition of the existing bungalow (No. 9 Church Road) and outbuildings and the construction of 50 dwellings with garages. The dwellings would be primarily two-storey in height, comprising a mix of detached, semi-detached and terraced houses. The scheme proposes 40% affordable housing.
- 3.1.11 A singular pedestrian, cycle and vehicular access road is proposed. This access road is supported by an internal loop road with spurs serving residential parcels. A green open space is shown centrally located within the plot as well as within the southwest corner of the site.
- 3.1.12 The Planning Statement and Design and Access Statement proposes high quality materials, surfacing material and boundary treatments within the development. Existing landscaping features would be reinforced with additional planting with new green spaces proposed.
- 3.1.13 The proposal would result in the removal of 78 individual trees, three tree groups and the partial clearance of one further group to facilitate the construction. The majority of the trees to be removed would be on the northern boundary of the site as well as the southeast corner and some within the western part of the site.
- 3.1.14 During the lifetime of the application the submission has been amended and it is now proposed to provide 50% of the dwellings as Affordable Housing. Therefore, there is now an over provision of affordable housing 10% above the policy requirement.
- 3.1.15 The following Draft Heads of Terms have been agreed with the Applicant:
- 50% affordable housing.
 - Recreational Avoidance Mitigation Strategy (RAMS) tariff at £156.76 per dwelling.
 - Education:
 - Early Years and Childcare – £77,706 (£17, 268 per place)
 - Primary - £259, 202 (£17, 268 per place)
 - Secondary - £237, 750 (£23,775 per place)
 - Transport - £49, 780
 - Libraries £3,890 (£77.80 per unit)
 - £550 monitoring fee per obligation
 - National Health Service (NHS) £24, 700.
 - Open Space contribution including either a Natural Equipped Area of Play (NEAP) or LEAP (Local Equipped Area of Play).

Background

- 3.1.16 The current application follows a previous application (15/01342/OUT) that was refused on appeal. In summary, on 1 February 2017 planning application 15/01342/OUT was allowed at appeal (APP/X1545/W/16/3152640) following a refusal by officers. That appeal decision was Judicially Reviewed (JR) and was subsequently considered by the High Court who quashed the original appeal decision on the grounds that the inspector had not given legal reasons for not giving sufficient weight to (previous) 'saved' policies. This resulted in the appeal being redetermined and subsequently dismissed on 18 December 2017. The Inspector opined that the proposal was contrary to policy S8 of the (at the time) recently adopted Local Development Plan, and there was not sufficient benefit (i.e., affordable housing) to warrant determining the appeal other than in accordance with the development plan. The development subject of those appeals and application was for *'Outline planning permission for demolition of existing dwelling and erection of up to 52 residential dwellings with associated vehicular access'*.
- 3.1.17 The main differences between what is being proposed as part of this application and the previously dismissed appeal is that this application proposes up to 50 dwellings, whereas the previous application sought outline for up to 52 dwellings. Furthermore, this scheme proposes 50% affordable housing, whereas the previous scheme proposed a policy compliant level of 40% affordable housing. This amounts to a 10% increase over policy compliancy. The reduction of two dwellings is not considered to be a material change to the development, particularly given that the indicative layout plans for each development show that this change would not fundamentally alter the layout of the site. As stated above, even though layout is not a consideration for this application, as the internal access arrangements are for consideration, the layout is largely dictated by the position of the internal circulation routes.
- 3.1.18 The current application was initially submitted at a time when the Council could not demonstrate a Five Year Housing Land Supply (5YHLS). This position has now changed (during the consideration of this application), and the Council is able to demonstrate 6.35 years' worth of housing supply. As such there is no material difference in the Council's 5YHLS position between this application and as at the time of the previously dismissed scheme.
- 3.1.19 The material considerations that differ in respect of this application and the previous is that the Affordable Housing provision to be provided has increased from 40% to 50% as set out above, the National Planning Policy Framework (NPPF) has been updated (2021), the Maldon District Design Guide (MDDG) was adopted on the 21 December 2017, the Wickham Bishops Neighbourhood Development Plan (WBNDP) was made in July 2021, the Maldon District Green Infrastructure Strategy was adopted on 16 May 2019, as well as changes to the Council's position in terms of the Council's Affordable Housing delivery. The shortfall of Affordable Housing is now also considered to be greater than it was at the time of the previous decision. This will be discussed in greater detail below.
- 3.1.20 The application site has been put forward in the Call for Sites (Site WBS2). The site has not been found to be suitable for development as part of this desk-based assessment due to the lack of pavement access along Church Road and that it is not known who owns the grass verges that would be used to provide the access. It was therefore, found that residents would be more likely to use their car. This is a matter that seeks to be addressed as part of this application through the provision of footpaths and will be addressed in the Highway Safety and Access section of this report below. However, it should be noted that the Call for Sites (Housing and Economic Land Availability Assessment (HEELA)) process is not a material

consideration in development management decision making. A commentary on a site assessed under the HEELA process does not determine whether the site is likely to be granted or refused planning permission.

3.2 Conclusion

- 3.2.1 Having taken all material planning considerations into account, it is considered that although the majority of the site is located outside of any settlement boundary, and that the tilted balance is no longer applicable due to the Council's 5YHLS position, the over provision of affordable housing weighs substantially in favour of the development.
- 3.2.2 There would be limited economic benefits associated with temporary jobs during the construction as well as minor economic benefits to the local services and facilities as a result of the additional residents. In social terms the proposals would make a contribution to the supply of housing in the District, and although the Council can now demonstrate that it has 6.35 years Housing Land Supply (HLS), maintaining a minimum of a 5YHLS is reliant on a balance of delivery of housing on the ground, approval of new permissions, and it is acknowledged the District still has a shortfall of affordable housing. The proposal would provide 50 new homes of which 25 would be affordable, thus it would make a good contribution to maintaining a 5YHLS and would help to address the shortfall in affordable housing, over and above what is required by policy. It would also provide a reasonable amount of new public open space of recreational value to the existing community as well as future residents and improve footpaths in the immediate vicinity of the site.
- 3.2.3 In environmental terms, the majority of the development would be sited outside the settlement boundary. However, the previous Inspector found that the proposal, given its location and context with the existing village, would not adversely affect the intrinsic character and beauty of the countryside nor harm the character and appearance of the wider area. In addition, existing hedges and trees could be retained and reinforced by appropriate mitigation, as well as the terms contained within the Section 106 (S106) and suggested conditions. The current scheme is consistent with the previous proposal in environmental terms and as such, in line with the previous Inspector's findings any adverse impacts on the intrinsic character and beauty of the countryside and the character and appearance of the surrounding area would not be deemed detrimental.
- 3.2.4 Sufficient information has been provided to conclude that the development would not cause harm to the amenity of the occupiers of existing residents, highway safety or nature conservation that could not be satisfactorily addressed at Reserved Matters stage. The development is satisfactory in terms of flood risk, drainage, contamination, ecology and archaeology, subject to detailed matters relating to these, and other remaining considerations which could be adequately addressed at the Reserved Matters stage or through the imposition of conditions.
- 3.2.5 The Applicant has agreed to enter into a S106 Agreement to secure obligations for the provision of affordable housing, education, health, public open space including a NEAP or LEAP, Travel Plan and RAMS contribution.
- 3.2.6 For the reasons summarised above the benefits of the proposed development are on balance, considered to outweigh the potential harm caused and it has therefore been found to be acceptable and is recommended for conditional approval accordingly.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2021 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47 – 50 Determining applications
- 54 – 57 Planning conditions and obligations
- 59 – 79 Delivering a sufficient supply of homes
- 81 - 85 Building strong, competitive economy
- 86 - 91 Ensuring the vitality of town centres
- 92 - 103 Promoting healthy and safe communities
- 104-113 Promoting sustainable transport
- 119-125 Making effective use of land
- 126-136 Achieving well-designed places
- 152-173 Meeting the challenge of climate change, flooding and coastal change
- 174- 188 Conserving and enhancing the natural environment
- 189- 208 Conserving and enhancing the historic environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D4 Renewable and Low Carbon Energy Generation
- D5 Flood Risk and Coastal Management
- H1 Affordable Housing
- H2 Housing Mix
- H3 Accommodation for 'Specialist' Needs
- H4 Effective Use of Land
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services
- I2 Health and Wellbeing

4.3 Wickham Bishops Neighbourhood Development Plan (WBNDP)

- WBEc 01 Home Working
- WBEc 01 Recreational Disturbance Avoidance and Mitigation
- WBEc 02 Biodiversity and Natural Habitats
- WBEc 03 Special Views and Vistas
- WBEc 04 Open Spaces
- WBF 02 Sustainable Means of Travel
- WBF 03 Highway Safety
- WBH 01 Design and Character
- WBH 02 Lifetime Homes

4.4 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide (MDDG)
- Maldon District Adopted Vehicle Parking Standards.

4.5 Necessary Associated Infrastructure Improvements Required and/or Affordable Housing

- 40% affordable housing
- RAMS tariff at £156.76 per dwelling
- Education:
 - Early Years and Childcare – £77,706 (£17, 268 per place)
 - Primary - £259, 202 (£17, 268 per place)
 - Secondary - £237, 750 (£23,775 per place)
- Transport - £49, 780
- Libraries £3,890 (£77.80 per unit)
- £550 monitoring fee per obligation
- NHS £24, 700
- Open Space contribution

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 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 paragraph 47 of the NPPF state that the starting point for decision making should be the Local Development Plan (LDP) and require that planning decisions to be made in accordance with the LDP unless material considerations indicate otherwise. In this case the Development Plan comprises of the adopted Maldon District Local Plan 2014-2029 (The Local Development Plan or LDP).
- 5.1.2 Policy S1 of the LDP states that “*When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF*” and apply a number of key principles in policy and decision making set out in the policy.

- 5.1.3 Policy S8 of the LDP steers new development towards the existing urban areas. This policy does allow for development outside the rural areas where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided that it is for specified purposes. These specified purposes do not include new build general residential properties.
- 5.1.4 As per paragraph 74 of the NPPF, the Council as the Local Planning Authority (LPA) for the Maldon District is expected to “*identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5 years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than 5 years old*”. To this end, Maldon District Council (MDC) prepares and publishes a Five Year Housing Land Availability Report, annually, following the completion of the development monitoring activities associated with the LDP 2014-2029’s plan monitoring period of 1 April to 31 March.
- 5.1.5 Work has recently been carried out by the Council in reviewing the suitability of the 5YHLS methodology through its 5YHLS Working Group established in August 2022. The work has now assessed the current 5YHLS figure as 6.35 years. At its Statutory Annual Council meeting on 18 May 2023 the Council subsequently confirmed that the official 5YHLS for the Maldon District now stands at 6.35 years, updating the previous official position for 2021 / 22 of 3.66 years that is quoted in published Area Planning Committee reports. This means that the Council presumption in favour of sustainable development position against Paragraph 11(d) footnote 8 has changed as the Council can now demonstrate a 5YHLS. However, whilst the policies in the plan have now regained their status due to the improved 5YHLS figure, it should be noted that this is not a ceiling to development as maintaining a minimum of a 5YHLS is reliant on a balance of delivery of housing on the ground and approval of new permissions. The Council is therefore now in a robust position in its consideration of new development, particularly where the benefits against the harm are to be weighed up in terms of sustainability (in terms of the NPPF, and the Local Plan), the provision of the most suitable types of housing for the district, impact on the countryside, heritage and protected sites, and the provision of appropriate levels of infrastructure.
- 5.1.6 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through policy S1 re-iterates the requirements of the NPPF policy S1 which allows for new development within the defined development boundaries. However, sites outside of the defined development boundaries could still be judged to be ‘sustainable development’ through the three dimension tests of the NPPF’. The LPA is, however 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. Paragraph 78 of the NPPF states that:
- “To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.”
- 5.1.7 Wickham Bishops is considered a ‘larger village’ under the terms of policy S8. Policy S8 identifies larger villages as having ‘*a limited range of services and opportunities for employment, retail and education. They serve a limited local catchment and contain a lower level of access to public transport*’. Wickham Bishops specifically, has a number of services and facilities as set out in the Draft Rural Facilities Survey, including shops, a post office, eating and drinking facilities, hairdressers, a library, a

church, a village hall, a nursery, playground and facilities, shoppers and commuter bus services and is also on the national cycle route. Wickham Bishops is therefore considered a sustainable settlement.

5.1.8 In determining the appeal in 2017 the Inspector stated:

‘...I agree with the Council that to meet their day to day needs most future residents would need to access facilities in the larger neighbouring settlements of Maldon and Witham. However, I consider that this is not as a result of the backland location of the site but due to the fact that facilities within the village are relatively limited. Although there are a number of shops, they provide a limited range of goods and services; the bus service to Maldon and Witham is restricted and in my opinion would not be an attractive option for travel on a regular basis. Furthermore, from what I observed on site opportunities for employment within the village and the surrounding area would appear to be relatively narrow. As a result given the limited access to public transport I agree with the Council that the majority of these trips would be by private car.

However, I recognise that given its rural location that Wickham Bishops is not unique in having access to limited facilities and residents who are reliant on the car to meet their day to day needs. As the appellant has highlighted Policy S8 of the LDP classifies Wickham Bishops as a larger village for the location of development, second within the settlement hierarchy after Maldon, Heybridge and Burnham-on-Crouch. Therefore, whilst recognising that the development would be outside of the DSB [settlement boundary], given the location of the site in the context of this predominantly rural district I consider that the proposal would be located within one of its more sustainable locations.

...I do not consider that the proposal would be isolated from the rest of the village and I consider that the site is located within one of the villages which, given the rural nature of the district, is more sustainable. As a result the proposal would be in accordance with policies S1, S2, H4, D1, D2 and T1 of the LDP.’

5.1.9 Taking into account the observations made by the previous Inspector, the fact that the site lies adjacent to the settlement boundary, that there have been recent neighbouring permissions for dwellings such as, 21/00953/FUL at Land adjacent Little Hull Farm, Mope Lane, 20/00641/FUL at Fernbrook Hall, Mope Lane, and 21/00415/FUL at Land North of Orchard Way, Mope Lane, which are further from the settlement boundary, and the village has been found to be sustainable, there is no material reason to reach a different conclusion in respect of this application.

5.1.10 It is acknowledged that a number of letters of objection have been received raising concerns over the lack of footpath connection into the village and the distance of the site from the nearest bus stop (an approximate 10 minute walk). This is also something picked up in the ‘Call for Sites’ assessment. However, these were points accepted by the previous Inspector who considered that through the use of suitably worded conditions footpath improvements could be imposed which would increase the likelihood of people using sustainable modes of transport. Furthermore, as outlined above, albeit the example permissions were for a lesser number of dwellings, it has been found by the Council that dwellings further from the bus stop, with a longer walk (approximately 17 minutes for 21/00145/FUL) along unlit roads with no footpath are sustainably located. Therefore, although this site would impact a larger number of people, the Council and Inspectors have previously accepted this location as an appropriate location in relation to accessibility to facilities for day to day living for new residential development. In addition to this the NPPF recognises at paragraph 105 that opportunities to maximise sustainable transport solutions will vary

between rural and urban areas, and this should be taken into account in decision making.

- 5.1.11 The Highways Authority has also confirmed that even if the possibility of a new footway is not possible, which will be addressed in the relevant section below, given the low speeds, low traffic flows and size of the development, it would not be detrimental to pedestrian safety if no continuous footway connection was provided. It also states that the situation is similar to most of the existing routes through the village where there are no continuous footway links. It considers the site to be within a good distance of the village's services and facilities and is satisfied that the development will not be detrimental to highway safety, capacity or efficiency.
- 5.1.12 Whilst land ownership is not a material planning consideration, it is also pertinent to note that Officers have requested information from the Applicant in relation to their rights to provide a footpath to the front of the site following concerns raised in a letter of objection. The Applicant's Agent has advised that the Applicant has a signed legal agreement, and there is a restrictive covenant which has been registered against the land, which has never formally been disputed and has been put in place for some years. The Applicant is therefore of the view that this matter, having sought their own legal opinion, does not affect the ability to sign any S106 agreement or the imposition of Grampian Conditions in relation to the provision of a footpath, as well as the deliverability of the scheme and the sites access.
- 5.1.13 In consideration of the above, although the site is located outside of the defined settlement boundary for Wickham Bishops, and therefore, in principle contrary to policy S8, in light of the findings of the previous Inspectors and the material considerations which have been given significant weight, Officers are of the view that the provision of housing on the site, in this instance, can be supported without undue prejudice to the Development Plan or, creating an undesirable precedent.

5.2 Housing Mix

- 5.2.1 The NPPF is clear that housing should be provided to meet an identified need.
- 5.2.2 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for the 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.
- 5.2.3 The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for three-bed dwellings; specifically, 25-35% two-beds and 40-50% three-beds.
- 5.2.4 The Council seeks to deliver a range of homes in terms of sizes that will contribute to the creation of mixed, inclusive and sustainable communities. It will be important to ensure the District's housing stock provides for a wide range of housing needs and offers choice.
- 5.2.5 The application does not provide a housing mix. However, the Planning Statement does set out that a mix of 2-4 bedroom houses with a mix of types (terraced, semi-detached and detached) will be provided. Whilst the suggested mix does not include

any one-bed properties and therefore, is not wholly compliant with the LHNA, given that the application is in outline form a condition can be imposed to ensure that the housing mix delivered through subsequent applications for approval of Reserved Matters meets the housing mix required through the LHNA.

5.3 Affordable Housing

- 5.3.1 Policy H1 requires that all housing developments of 10 or more will be expected to contribute towards affordable housing provision to meet the identified need in the locality and address the Council's strategic objectives on affordable housing. The site is located in an area identified in the approved LDP where 40% of the units would need to be affordable to comply with the requirements of Policy H1. The proposed development would provide 50% of the total housing provided as affordable housing. The development would therefore exceed the affordable housing requirement set out in Policy H1, which will be secured through a S106.
- 5.3.2 Annex 2 of the NPPF defines Affordable Housing as "housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers)".
- 5.3.3 Access to good quality and affordable housing is a significant issue for residents of the District. Building new homes that are genuinely affordable for residents is a key priority for the Council. The increased cost of day-to-day living can lead to competing issues like fuel poverty and access to healthy food, and it is clear that the number of people needing affordable housing in the District has grown since the adoption of the LDP. Furthermore, it is acknowledged that residents are experiencing affordability problems arising from the relationship between local incomes and the realistic supply of the cheapest housing available.
- 5.3.4 As highlighted in section 3.1 above, the affordable housing shortfall at the site has become greater than at the time the previous appeal decision was made.
- 5.3.5 As part of the previous appeal the Inspector accepted that there is a general need for affordable housing in the District as a whole. The delivery of affordable housing was accepted as a benefit to the scheme, but it was found that as this would not be above the amount required for the scheme to comply with the requirements of Policy H1, the amount to be delivered was found to be limited. Further, although the Inspector agreed the provision would help to address the shortfall, it was not found to be sufficient to warrant significant weight in the planning balance. Therefore, the Inspector concluded that *'I do not consider that the limited delivery of affordable housing would be sufficient reason to warrant determining the appeal other than in accordance with the development plan'*.
- 5.3.6 The level of affordable housing to be provided as part of this application is 50% and is therefore, 4.2% of a dwelling greater than the previous scheme due to the reduction of dwelling numbers between the two schemes and the increase in the number of affordable units to be provided. The over provision, therefore, carries greater benefits towards the scheme than the previous development.
- 5.3.7 The Districts affordable housing need as part of the previous application was based on the Strategic Housing Market Assessment (2014) (SHMA), which formed the evidence base for the LDP and therefore, the housing delivery figures. The SHMA identified that the District had a shortfall of affordable housing of 182 dwellings per annum over the plan period (15 years). The SHMA has since been updated by the LHNA (May 2021) and shows an annual need for 174 rented affordable homes in the District, as well as 35 affordable ownership properties, a total of 209. However, the

LHNA also acknowledges that in order to meet the affordable housing need in full a total of 523 homes (market and affordable) per annum would be required and for all sites to meet 40% affordable housing requirements. Based on current delivery figures this is not achievable.

- 5.3.8 The Maldon District Local Development Plan Authority Monitoring Report 2022 / 23 Strategic Housing and Housing Policies Fact sheet sets out the delivery of affordable housing across the District for the period of 2014 – 2021 / 22:

Affordable Housing			
Site	Total Due	Residual Due	Complete
Land east of Malone Cottage	5	0	5
Theedhams Farm, Southminster	28	0	28
Manor Farm, Nth Fambridge	9	0	9
Pippins Road	23	0	23
94 South St, Tillingham	9	0	9
Burnham Waters Ph 1	25	25	0
Tillingham Hall Farm	6	6	0
34 Hall Rd, Gt Totham	12	12	0
Golf Range, Woodham Mortimer	8	8	0
West of Fambridge Rd, Nth Fambridge	28	28	0
North of Latchingdon Bowls Club	16	16	0
Bridgemans Green	15	15	0
West of Cemetery Rd, BOC	24	0	24
Burnham Waters Ph 2	50	50	0
North 48 Woodrolfe Rd	12	12	0
2a	298	127	171
2b	120	120	0
2c	32	0	32
2d	313	313	0
2e	49	0	49
2f	58	0	58
2h	0	0	0
2i	95	9	86
2j	72	0	72
2k	36	3	33
Total	1343	744	599

- 5.3.9 As can be seen above, the Council was delivering on average 75 affordable homes per annum, which represents a shortfall of over 100 homes against the need of 209 dwellings set out in the LHNA. Despite an upturn in affordable housing, during the monitoring period, due to the Strategic Allocations being built out, the Council still has an under delivery of affordable housing.

- 5.3.10 In addition to historic affordable housing delivery, it must also be noted that not every site would be required to deliver 40% affordable housing as Policy H1 sets out a range of provision between 25% and 40% depending on the location of the site. Further, there will be instances where viability results in sites delivering less than they are required. Likewise, the Strategic Allocations in the Local Plan have either now largely been built out or have already obtained their planning permission. Therefore, this does not leave many sites, including windfall sites within the settlement boundaries, available to bring forward to meet the required levels of affordable housing in the future. Therefore, not only is the shortfall highlighted by the annual delivery targets and historic delivery rates, but the forecast for available permissions to meet this demand also suggests that the Council will require sites such as this where there is an over provision of affordable housing in order to reduce its shortfall.
- 5.3.11 The LHNA concludes that '*... it is clear that provision of new affordable housing is an important and pressing issue in the District. It does however need to be stressed that this report does not provide an affordable housing target in policy terms - the amount of affordable housing delivered will be limited to the amount that can viably be provided. The evidence does however suggest that affordable housing delivery should be maximised where opportunities arise*'. Therefore, opportunities such as this which provide an over provision of affordable housing should be seen to significantly weigh in favour of a development.
- 5.3.12 In a recent appeal decision (APP/X1545/W/22/3303195, 9 February 2023) at Land off Maldon Road, Great Totham for outline permission, including the consideration of access, for up to 80 dwellings, the Inspector stated that '*the evidence before me indicates that there is a significant need for more affordable dwellings within the area under the jurisdiction of the Council, and also Great Totham*'. In determining the amount of weight to give to the affordable housing provision in the planning balance, the Inspector concluded '*...Therefore, I attribute the social benefits arising from the increased affordable housing supply a significant amount of weight*'. Although the scheme of 80 dwellings would provide 32 units, seven more than this scheme, the addition of 25 units is still important, especially where there is a willingness to over provide. Therefore, this decision further supports that since the determination of the previous appeal where the policy compliant affordable housing provision was given limited weight, that the over provision of affordable housing should now be given significant weight in the planning balance.
- 5.3.13 The site falls within the Northern Rural area, as specified by Policy H1 where there is a requirement of 40% Affordable Housing. The LHNA identifies a tenure split of 75% Affordable / Social Rented and 25% Intermediate Housing. The NPPF sets out that 25% of the Policy Requirement of affordable housing provision should be provided as First Homes. Therefore, of the 40% required by Policy, the 25% Intermediate housing (5 dwellings) should be secured as First Homes in order to meet the requirements of the NPPF and the remaining 75% (15 dwellings) as rented. This can be achieved through a suitably worded condition and a S106 agreement.
- 5.3.14 Officers are currently negotiating with the Applicant as to what tenure split the 10% over provision will be provided as. This will be agreed prior to the Committee meeting and communicated by way of a Members' Update.
- 5.3.15 The LHNA identifies a breakdown of sizes of Affordable units is as follows:

Affordable ownership	
One-bed	15 – 25%
Two-bed	35 – 45%

Affordable ownership	
Three-bed	25 – 35%
Four-bed+	5 – 15%

Affordable ownership	
One-bed	30 – 40%
Two-bed	30 – 40%
Three-bed	20 – 30%
Four-bed+	Up to 10%

5.3.16 The LHNA also stipulates that consideration should be given to requiring all dwellings to meet the M4(2) standards as a starting point and that the Affordable dwellings be developed to Nationally Designed Space Standards to meet the needs of single / couples and families on the Housing Register.

5.3.17 As with the market housing, a condition can be applied to ensure that the mix of affordable properties is compliant with the requirements of the LHNA.

5.3.18 The S106 Agreement will ensure that the above requirements are met and will also ensure in accordance with the comments from Strategic Housing that:

- 25% of the affordable home ownership products would be provided as First Homes to meet the requirements of the NPPF.
- as many of the dwellings as possible would meet M4(2) standards.
- 10% of homes would meet Part M4(3) - wheelchair user dwellings, with a higher percentage being provided within the affordable housing units.
- the gross costs of the affordable units (rent / service charge) will be within Maldon District Council's Strategic Tenancy Strategy and delivered by a Registered Provider / Housing Association who are recognised and regulated by Homes England and eligible for funding from Homes England.
- an Affordable Scheme detailing tenure, cost, allocation of units would be provided.
- the Affordable units are required to meet Nationally Described Space Standards.

5.3.19 The Affordable Housing Officer supports the application subject to compliance with the terms set out above.

5.4 Scale of Development / Infrastructure Capacity

5.4.1 For the reasons set out in section 5.1 above, Wickham Bishops is considered to be a sustainable location for new development. The estimated population of Wickham Bishops according to the Draft Rural Facilities Survey and based on the 2011 Census and estimated growth since 2014 as 1,925 people. The NHS has estimated that this development could generate approximately 120 new residents to the village. An increase of approximately 6% to the existing settlement. It is evident that the local community has strong concerns regarding the capacity of the various attendant infrastructure serving the village and how it could occupy this growth. However the relevant consultee responses serve to confirm that, subject to the conditions recommended, existing facilities and services could meet the demands arising from the additional growth in population that the proposed housing would generate.

5.4.2 The conditions and obligations in the S106 require various improvements to the attendant infrastructure including for highways and transport, drainage, education, RAMS and health in accordance with the consultee's recommendations. Subject to

these requirements the scale of development is considered to be acceptable for the following reasons.

Education

- 5.4.3 The residential development proposing the erection of up to 50 dwellings is expected to be family housing and therefore, a contribution towards education should be sought to mitigate the potential impacts of the development. The Essex County Council (ECC) Infrastructure Department has been consulted and it is advised that the development is expected to generate a need of up to 4.5 early years and childcare, 15 primary school and 10 secondary school places, along with transport contributions and library contributions. Although the actual payment would be based on the actual dwelling mix, initial figures of the required payment to off-set the impact of the development have been provided.
- 5.4.4 It is stated that a contribution of £77,706 index linked to Quarter One (Q1) - 2020 would be required to off-set the impact onto the capacity of the early years and Childcare.
- 5.4.5 In terms of primary education, as stated above, an additional 15 places would be required at an estimated cost of £259,202 index linked to Q1 - 2020. It is anticipated due to the demand generated by this development this contribution would be used towards the creation of a new education facility which is included in The Essex School Organisation Service's 10 Year Plan for a new primary school at Limebrook Way.
- 5.4.6 For secondary education, the development would be within the Priority Admissions Area of the Plume School in Maldon, but the Maltings Academy in Witham is closer. The school Published Admission Number is 295 pupils per cohort, but they have taken slightly over that number in recent years due to local demand. The Maltings Academy has a Published Admission Number of 180. The Essex School Organisation Service's 10 Year Plan includes proposals to expand both schools. In order to mitigate against the impact on secondary school provision the development would require a provision of £2327,750 index linked to Q1 - 2020.
- 5.4.7 In respect of secondary education transport contributions, it is considered that a contribution of £49,780 would be required.
- 5.4.8 Although a contribution towards Post-16 education is not required, a condition is necessary to secure an Employment and Skills Plan (ESP) to set out how the developer will engage with and maximise local labour and skills opportunities.
- 5.4.9 ECC has also advised that a contribution of £77.80 per unit is sought to offset additional usage of the local library. The contribution is considered necessary to support the expansion of the library service. Therefore, the overall contribution in this respect would equate to £3,890 indexed linked to April 2020.
- 5.4.10 The Applicant has submitted a Draft Heads of Terms which agrees to the payment of these contributions. Therefore, any impacts to education can be suitably mitigated.

Health

- 5.4.11 The NHS has advised that the capacity of primary healthcare facilities in the area of the proposed development are already below the recognised standards of provision for the existing population and that additional population growth from the new development would add to the deficit and so would be unsustainable if unmitigated.

5.4.12 The NHS has provided the following table which serves as a useful summary of the existing position with healthcare services within 2km of the site:

GP surgeries within 2km	Weighted List Size ¹	NIA (m ²) ²	Capacity ³ needed for current weighted list size	Spare Capacity (NIA m ²) ⁴
Fern House Surgery (combined)	16,926	892.20	1,160.63	-268.43
Existing floorspace excess/deficit			Existing deficit of 268.43m ²	

5.4.13 The developer has agreed to make the necessary financial contributions to address this current shortfall in capacity of this attendant health service provision in accordance with the detailed assessment and recommendations provided by the NHS. The NHS has confirmed that the terms for this are appropriate having regard to the formulated needs arising from the development and that the basis and value of the following developer contributions is consistent with the policy and tests for imposing planning obligations set out in the NPPF.

- Capital contribution of £24,700 required to create additional primary care floorspace for support the population arising from the proposed development.

5.4.14 This contribution will increase capacity for the benefit of patients of the primary care network operating in the vicinity of the application site to serve the population generated by the development.

5.4.15 Matters relating to open space, RAMS, drainage, and highway capacity will be addressed in the relevant sections below.

5.5 Design and Impact on the Character of the Area

5.5.1 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.

5.5.2 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.”

- 5.5.3 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.
- 5.5.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG and policy WBH 01 Design and Character of the WBNP.
- 5.5.5 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 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.
- 5.5.6 The majority of the application site lies outside of the defined settlement boundaries. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.5.7 The application has been supported by a Landscape Visual Impact Assessment (LVIA). The LVIA represents an update of the LVIA that was undertaken for the previous appeal scheme (APP/X1545/W/16/3152640). The updated document concludes that the site and proposed development have not changed significantly since 2015, and that the effects on the landscape character and the visual impact of the development remain the same and were not previously judged to be a reason for refusal by the Inspector. The following key findings are set out in the report:
- Due to the site's highly contained nature, effects will be highly localised, within the immediate setting along Church Road and will not result in any long-term significant effects upon the receiving visual environment.
 - It is demonstrated that the site has capacity to accommodate the nature of the change proposed.

- The development would be sensitive and considered, relating to the existing village fringes and character of Wickham Bishops.
- The site's key existing green infrastructure assets will be retained.
- The layout ensures that the proposals can be integrated into the site and its immediate setting.
- The site and receiving environment have the capacity to accommodate the development.
- The proposal will not result in significant harm to the landscape character or visual environment.

5.5.8 In addition to the above, the Inspector in the appeal decision dated 18 December 2017 noted that *'the proposal would affect the character and appearance of the area by virtue of introducing housing and its related infrastructure into what is effectively a greenfield site. However, it is the harm that would result from this change and the effect that this would have on the character and appearance of the area that needs to be assessed'*. The key findings of the Inspector are:

- *'the site [has] a pleasant rural aspect...and is clearly appreciated and valued by those who live in and around the area.'*
- *'However, from most vantage points the site is viewed against the backdrop of the existing village or the houses in Mope Lane. Furthermore, the mature hedges and trees located around the site boundary filter views into the site. The illustrative masterplan indicates that this planting could be retained and reinforced and I agree that this could be achieved by means of a suitably worded condition.'*
- *'...views of the site from the wider area are relatively limited'*.
- *'...from the wider vantage points the proposal would be viewed in the context of the existing village and landscape.'*
- *'...the proposal would not... adversely affect the intrinsic character and beauty of the countryside nor harm the character and appearance of the wider area.'*
- *'...on balance although the proposal would deliver development at a higher density and in a different form to the existing housing it would not be to the detriment of the character and appearance of the village.'*
- *'...whilst recognising that the development would be outside of the DSB [Settlement Boundary], given the location of the site in the context of this predominantly rural district I consider that the proposal would be located within one of its more sustainable locations.'*
- *'...the proposal would alter the open character of the edge of the village I consider that the rural character of the area would be maintained. Furthermore, for the reasons I have outlined, I consider that the proposal would not result in an intrusion into open countryside, nor would it adversely affect the character and appearance of the area.'*

5.5.9 As set out in paragraph 3.1.16 above the main difference between the previously dismissed appeal scheme and the one subject of this application is that this scheme proposes 50 dwellings opposed to 52. However, the reduction of two dwellings does not materially alter the impacts that the development would have on the character and appearance of the area. Furthermore, although the WBNDP has been made since the previous decision, the relevant policies WBen 03 (Special Views and Vistas). WBH 01 (Design and Character) and WBen 04 (Open Spaces) would not be considered to have a material impact on the conclusions made by the Inspector.

- 5.5.10 The Inspector had acknowledged that views of the site from the wider area are relatively limited and therefore, WBen 03 would not represent a reason to object to the application. In terms of policy WBH 01, the Inspector concluded that the proposal would not demonstrably impact on local character or its historic setting. The other matters set out in this policy could be accomplished through the detailed design phase at Reserved Matters.
- 5.5.11 In respect of policy WBen 04 the development, as mentioned by the previous Inspector, would not result in any intrusion into the open countryside and would not adversely affect the character and appearance of the area. As such, the development would not adversely affect the open character of the edge of settlement to a degree that would result in demonstrable harm. Furthermore, given that the site is enclosed, with development beyond its boundaries, it would not result in the coalescence with another village.
- 5.5.12 The same applies in respect of the relevant sections of the MDDG (C02 (Using the sites features), C12 (Layout and Plot Size), C13 (Density and Uses), C19 (The Building Edge)).
- 5.5.13 In respect of the Design Guide, the Inspector discussed how the density of the development would be appropriate and how the development would be read in the context of the existing village. It was also acknowledged that there was a green edge to the development. On this basis, it would not be reasonable or proportionate for the Council to reach a different conclusion to the previous Inspector in terms of the impacts on the character and appearance of the area.
- 5.5.14 On the basis of the findings above, it is concluded that the development would be in accordance with policies S1, H4 and D1 of the LDP as well as guidance contained within the MDDG and the policies contained within the WBN DP.

5.6 Impact on Neighbouring Heritage Assets

- 5.6.1 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.
- 5.6.2 In addition to the above, policy D3 of the approved Maldon District Local Plan states alterations to listed buildings will be required to "preserve or enhance its special character, appearance, setting-including its streetscape and landscape value- and any features and fabric of architectural interest".
- 5.6.3 The closest designated heritage assets to the application site are Abbots, No.3 Church Road and the Church of St Bartholomew, both Grade II Listed Buildings. Following consultation with the Conservation Officer it is found that the application site does not form an important part of the setting of the listed house. The development would have little, if any, impact upon the ability to appreciate the significance of the listed building. As such having regard to the comments of the Conservation Officer, the contents of the submitted Heritage Assessment (December 2015) and bearing in mind that there has been no material change to the development in relation to the previous appeal scheme where no objection is raised, it is considered that the proposal poses no conflict with policy D3 of the Maldon LDP, chapter 16 of the NPPF or the duty set out in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

5.7 Impact on Residential Amenity

- 5.7.1 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. Similarly, policy D2 of the approved LDP requires all development to minimise all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.7.2 It is important to note that this is an outline planning application with the 'layout', 'appearance', 'landscaping' and 'scale' forming the Reserved Matters. No details have been submitted at this stage regarding the design, appearance and the exact height of the dwellings or the precise position of the fenestration on each property. The Council is therefore unable to fully assess the impact regarding the loss of light or privacy to any of the existing residential properties fronting onto Church Road, Wellands Close, Leigh Drive or Mope Lane.
- 5.7.3 Notwithstanding the above, as previously set out, the layout of the site is largely dictated by the positioning of the internal estate roads. This, therefore, gives an indication of the neighbouring impacts. The back-to-back distance between existing properties and the proposed are 25m or more as required by the MDDG. Furthermore, the proposed properties are set a fair distance from neighbouring gardens, and any neighbouring gardens impacted on Church Road, Leigh Drive or Mope Lane are of a sufficient size as to be unlikely to be materially impacted by a loss of privacy. In addition there were no concerns raised in respect of this matter by the previous Inspector.
- 5.7.4 Concerns have been raised by the existing residents in relation to the proximity of the access road to existing boundaries and how this will affect the amenity of the neighbouring properties to the development. The development now proposes two less dwellings than the previous scheme and therefore, the number of vehicle movements will not be substantially different to that which was previously found to be acceptable.
- 5.7.5 The development would also involve the provision of a pumping station. However, it is considered that this can be located in an area which does not cause noise impacts to existing and future residents.
- 5.7.6 On this basis any concerns regarding the loss of residential amenity can be addressed at the Reserved Matters stage through careful and appropriate design and by imposing appropriate planning conditions.

5.8 Access, Parking and Highway Safety

- 5.8.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

- 5.8.2 Policies WBF 02 and WBF 03 of the WBNDP seek to achieve sustainable means of travel and ensure that developments take account of the capacity of the Local Highway Network.

Access

- 5.8.3 The proposed access is a priority junction which will require the demolition of No.9 Church Road in order to facilitate its delivery. The Local Highways Authority has been consulted on the provision of the access and confirmed that the access arrangements have appropriate geometry and visibility splays onto Church Road for its speed. Therefore, no objection is raised in respect of the access.
- 5.8.4 The development also includes the provision of a footway to the east of the site with tactile paving on both the north and southern side of Church Road to provide access to Church Green, as well as cycle provision within the site. This is something that can be secured by a condition, along with visibility splays, crossing points to be agreed and the widening of the footways.
- 5.8.5 Although the above footpath provision would not provide direct access into the main services and facilities of the village, the Transport Assessment concludes that the low speeds, and low traffic flows as well as the size of the development would prevent the lack of a continuous footway connection provided into the village from being detrimental to pedestrian safety. This is also recognised by the Local Highways Authority, who highlight that this is a similar situation to most of the existing routes through the village. In addition, although the footpath proposed as part of the previous scheme extended further east from Church Green, it still did not connect to the existing footpath network. Therefore, the development is not materially different in that respect.
- 5.8.6 It is recognised that letters of objection have been raised in respect of land ownership disputes for the land required to deliver the visibility splays for the access arrangements. Whilst land ownership is not usually of material concern to a planning application, given that the development will be reliant on Grampian conditions, Officers have contacted the Applicant's Agent to discuss this matter. The Applicant states that they have a signed agreement that enables them to be able to deliver the proposed access arrangements. This was also something raised as part of the previous appeal scheme but was not something that the Inspector had raised concern over. Therefore, subject to conductions requiring a Construction Management Plan, securing highway improvements and the provision of a Residential Travel Information Pack for all residents the site access is considered suitable and deliverable.

Trip Generation

- 5.8.7 The Transport Assessment includes a travel demand review based on the TRICS (Trip Rate Information Computer System) database. The findings of the assessment is that the development will generate a total of 27 two-way vehicle movements in the AM peak hour and 25 two-way vehicle movements in the PM peak hour. This equates to less than one additional vehicle movement every two minutes over the peak hours. The greatest impact will be during the AM peak hour at the junction of Church Road and Mope Lane. However, this only relates to 21 vehicles and is said to dissipate quickly. The Transport Assessment concludes that this impact is less than that which was determined by the Transport Assessment supporting the previous appeal scheme and the development will produce a low volume of traffic. Therefore, in accordance with the comments made by the Local Highways Authority it is concluded that, the existing vehicle flows and speeds along Church Road are low,

which shows that the development will not have a significant, or severe impact at this location or on the wider highway network.

- 5.8.8 Although the trip data is based on 2015, it is not considered that the development would result in any increase movements as to what was modelled at that time. Furthermore, although concerns have been raised by objectors in relation to increased traffic since 2015, the impacts of the development will not add a substantial level of traffic to the local highway network. Furthermore, although there may be more deliveries than there were in 2015, the likelihood of people travelling to a place of work has reduced due to more people now working from home. Therefore, any impacts on the local highway network in comparison to 2015 are considered negligible.
- 5.8.9 It is noted that a Technical Note from an Objector has also been received in relation to visibility and impacts on the surrounding highway network. These comments have been taken into account by the Local Highways Authority before issuing their comments on the application.

Parking provision

- 5.8.10 The Council's adopted Vehicle Parking Standards Supplementary Planning Document (SPD) contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety, and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards are to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.8.11 It is noted that the application has been submitted in outline and no details for off-street parking have been provided with the application. Should permission be granted a condition to secure off-street parking provision for the development that is compliant with the Vehicle Parking Standards would be imposed. Conditions should include the provision of at least one electric vehicle charging point per dwelling.

5.9 Private Amenity Space and Impact on the Living Conditions of the Future occupiers

- 5.9.1 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 MDDG advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.9.2 The development has been submitted in outline, with matters of layout, scale, appearance and landscape being reserved for future consideration. No details of the size of the private gardens or the size of the proposed dwellings have been submitted, but this would be a matter for further consideration at a Reserved Matters

stage and thus, an objection would be unreasonable to be raised at this stage in relation to provision of private amenity space.

- 5.9.3 In terms of the quality of living accommodation, the indicative layout shows that some of the dwellings on the Primary Street facing west onto the dwellings fronting the shared surface would not achieve a back-to-back distance of 25m. However, the shortfall is minor (approximately 3m) and this would be subject to the submission of further details at a Reserved Matters stage, where there is a good probability that the necessary back to back distances can be achieved.

Air Quality

- 5.9.4 The development is located outside of any Air Quality Management Area. Furthermore, the net increase in 49 dwellings is not of a scale that would be anticipated to result in significant impacts to air quality. No concerns in relation to this matter have been raised by Environmental Health and nor were they raised as part of the previous application where there was a minor increase in dwelling numbers. The Inspector noted as part of the previous appeal that there was no substantive evidence to justify the need for a condition relating to Air Quality. Therefore, no objections are raised in regard to this.

Open Space

- 5.9.5 Policy N3 of the LDP requires development to contribute towards improving the provision, quality and or accessibility of local and strategic open space. Furthermore, Policy WBen 04 of the WBN DP supports development *'that provides and enhances open spaces, community woodland and provides opportunities to connect these spaces and provide defined areas for public access'*.
- 5.9.6 The proposed development would provide 0.7 hectares (ha) of public open space in three locations across the site which is shown on the indicative plan to be within the southwest corner, the northeast corner and the centre of the site. Whilst section c06 (Open Spaces) of the MDDG requires open spaces not to be pushed to the edges of the development, the position of the open space within this site would serve the relevant parcels of the development, with a central area also being provided. Therefore, the open space would be accessible for all residents and integrated into the development.
- 5.9.7 The Green Infrastructure Strategy SPD (GIS) was adopted by the Council on 16 May 2019. The GIS states that *'New developments shall assess the local provision of NEAPs and LEAPs and will be required to provide these within their development unless it can be demonstrated that this is not appropriate due to the scale or design of the development, or likely impacts in relation to biodiversity, cultural heritage, landscape or flood risk'*. The Applicant has expressed their willingness to provide a LEAP or NEAP within the site and for this to be included in the Heads of Terms. Whilst a development of this size would not always be expected to provide such a provision, the play facilities at the village hall are an approximate 15-minute walk from the application site. Therefore, provision within the site is of benefit to the scheme.
- 5.9.8 In consideration of the above, subject to a S106 securing the provision of the necessary open space no objection is raised.

5.10 Flood Risk, Surface Water and Foul Drainage

5.10.1 Policy D5 of the LDP states that the Council's approach is to direct strategic growth towards lower flood risk areas, such as Flood Zone 1 as identified by the Environment Agency. Where development is not located in Flood Zone 1 and in order to minimise the risk of flooding, it should be demonstrated that the Sequential and Exception Tests, where necessary, have been satisfactorily undertaken in accordance with national planning policy.

5.10.2 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. To assess that, a Sequential Test should be applied.

"The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding."

5.10.3 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 more than 1ha in size and it is accompanied by a Flood Risk Assessment (January 2023). The report concludes that the development site is appropriate for development, and that the surface water strategy has been designed to appropriately accommodate all flows for up to 1 in 100 year (1.0% AEP (Annual Exceedance Probability)) plus 45% climate change event.

5.10.4 The Lead Local Flood Authority were consulted on the application and raise no objection subject to conditions requiring a detailed surface water drainage scheme for the site, along with its maintenance and management, and a scheme to minimise the risk of offsite flooding caused by surface water runoff and groundwater during the construction works. Therefore, given the low flood risk presented at the site, subject to conditions there is no objection in this regard.

5.11 Impact on the Ecology, Trees and Biodiversity

5.11.1 Policy N2 of the LDP states that *"All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance"*. Conservation and enhancement of the natural environment is also a requirement of the NPPF. Likewise, policy WBen 02 (Biodiversity and Natural Habitats) of the WBNPD seeks for all development to protect, retain and enhance existing trees, new woodlands, hedgerows and habitats which are important for their historic, visual or biodiversity value.

5.11.2 On the basis of the above, the application has been supported by an Ecological Assessment (Ref: 6746.EcoAs.vf, February 2023), which was subsequently updated during the application (Ref: 6746.UpEcoAs.vf, June 2023). The Assessment seeks to assist in the assessment of the potential impacts of the development on nature conservation sites and protected species.

5.11.3 Initially the Council's Ecological Consultant raised concerns over the lack of information relating to the presence or likely absence of bats and the likely roosting potential within buildings B1 and B2. Following these concerns the updated

Ecological Assessment dated June 2023 was submitted which included details of three bat emergence surveys undertaken in 2015 and one in June 2023. The results of those surveys provided confidence that the existing buildings within the site do not support roosting bats. As such no further mitigation was found to be required before those buildings are demolished. Following the updated assessment the Ecological Consultant confirmed that there was sufficient information to determine the application and no objection was raised subject to conditions. The conditions include:

- Securing the mitigation measures in the Ecological Assessment (Ref: 6746.UpEcoAs.vf, June 2023).
- A Construction Environmental Management Plan for Biodiversity (CEMP) to mitigate potential impacts to any retained and adjacent habitat, especially through dust and pollution events.
- A Biodiversity Enhancement Strategy to include bat boxes, bird boxes, wildflower grassland creation, Hedgehog friendly boundary features and a wildlife beneficial soft landscaping scheme.
- A Wildlife Sensitive Lighting Scheme in order to protect commuting and foraging bats.

5.11.4 Regard has been had to the number of public comments raising concern over the ecological impacts of the development and on particular species. However, the Ecological Assessment has been thoroughly reviewed by an Ecological Specialist who is a Member of the Chartered Institute of Ecology and Environmental Management, as well as Natural England (NE). The Ecological Assessment has given the necessary regard to a number of Protected and Priority Species included those listed in the objecting comments. Therefore, the consultees have been provided with the necessary information in order to determine the application as confirmed within Place Services consultation response dated 13 July 2023 as such no further concerns are raised.

5.11.5 It is recognised that policy WBen 02 seeks for development proposals to '*maintain and enhance green corridors through additional planting of locally native species of trees and hedgerows to improve ecological networks across the Parish, [and] create opportunities for habitats*' where it is appropriate to the scale, nature and location of the proposal. Although landscaping is a Reserved Matters for future consideration the indicative Landscape Plan (8035/ASP4/LSP) demonstrates that the development could include extensive landscaping through additional planting across the site. Therefore, it is not considered that the development conflicts with this policy.

5.11.6 The Policy also includes encouragement and support for '*Proposals to develop a network of wildlife corridors alongside public rights of way and through links between ancient woodlands, local wildlife sites and the Blackwater Rail Trail*'. However, the proposal does not require that all development must achieve this.

5.11.7 It should be noted that Mope Wood approximately 75m to the north west of the application site has been included within the draft Nature Conservation Study and Register of Local Wildlife Sites as Local Wildlife Sites (LoWS) Ma30. However, given the draft status of the documentation it is considered to carry limited weight. Furthermore, as addressed above there are no concerns in relation to ecology and biodiversity which could not be overcome by a condition.

Arboricultural Impacts

5.11.8 The application has been supported by an Arboricultural Impact Assessment (AIA) (Ref: 11571_AIA.001, January 2023). Of the 78 individual trees, three tree groups and partial clearance of one further tree group, 46 are Category B trees and one

Category B group which are material considerations to the development. However, although there are a significant number of trees to be removed in order to facilitate the development, the trees identified to be removed could not have been incorporated into the development without resulting in the loss of other higher value trees. Furthermore, the indicative landscaping plan indicates that there will be substantial planting on site to compensate for the losses. Therefore, subject to the measures within the AIA being adhered to, and subject to an Arboricultural Method Statement and Tree Protection Plan details being secured by way of a condition, the loss of trees can be suitably mitigated. Furthermore, it is also acknowledged that the previous Inspector also raised no objection in relation to the loss of trees in similar locations and numbers within the site.

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

- 5.12.1 NE has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary Special Protection Area (SPA) and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational Zol of these sites cover the whole of the Maldon District.
- 5.12.2 NE anticipates 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.
- 5.12.3 Prior to the RAMS being adopted, NE advised that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) – NE has provided an HRA record template for use where recreational disturbance is the only HRA issue.
- 5.12.4 The application site falls within the Zol for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a likely significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.12.5 The proposal is for less than 100 houses and NE's general advice is that an HRA should be undertaken and a 'proportionate financial contribution should be secured' from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site's resilience to recreational pressure and in line with the aspirations of emerging RAMS.

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

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

Is the development within the zone of influence (Zol) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes - The planning application relates to 50 dwellings.

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.

Summary of appropriate assessment

- 5.12.7 The application proposes the erection of 50 dwellings and a shadow HRA has been submitted with the application to assess the potential impacts of the development on the nature conservation sites. Given that the site is located within a Zol for the Essex Coast RAMS and taking into account the amount of development proposed on site, it is expected that the development would have likely significant effects on identified European sites. An appropriate assessment should therefore be carried out to assess the implication of the proposed development on the qualifying features.
- 5.12.8 The application proposes the erection of 50 dwellings. Given that the site is located within a Zol for the Essex Coast RAMS and taking into account the amount of development proposed on site, it is expected that the development would have likely significant effects on identified European sites. An appropriate assessment should therefore be carried out to assess the implication of the proposed development on the qualifying features.
- 5.12.9 The Essex Coast RAMS document has been adopted. The submitted Ecological Assessment (June 2023) states that mitigation measures in the form of a financial contribution towards mitigating the impacts caused to the Essex Coast by recreational activities will be made and no further bespoke mitigation is likely necessary. Given the distance between the proposed development and the European sites these findings are concurred with and the Council's Ecology Consultee raises no further concern in this respect. Therefore, subject to securing the necessary mitigation through the S106 no concerns are raised.

5.13 Other Material Considerations

Archaeology

- 5.13.1 The application has been supported by a Heritage Assessment (December 2015) which states that:

'The proposed development may have an impact on any sub-surface archaeological remains existing within the PDA. Such remains are likely to include former field boundaries of medieval or earlier date which would be of low sensitivity. They may

also include Iron Age or Romano-British settlement remains or field systems, which would also be considered to be of low sensitivity.'

- 5.13.2 The desk-based assessment assessed the archaeological potential as low for all periods. However, the Historic Environment Officer considers this as an under-estimate in that Iron Age or Romano-British archaeological remains present have the potential to be of moderate-high potential. Therefore, given the scale of the development as well as the fact that archaeological deposits are both fragile and irreplaceable, a condition should be imposed securing a programme of archaeological investigation.

Contamination

- 5.13.3 The application has been supported by a Phase 1 Geo-Environmental Desk Study Report (Ref: 63504R1) which found that the existing bungalow structure in the south of the site may be associated with some low-level contamination typical of residential land use. Potential off site sources of contamination related to the graveyard in close proximity to the site. Therefore, risk to human health is considered to be low. The risk to controlled waters from anticipated ground conditions were also assessed to be low. Therefore, no further action was recommended at the outline stage. However, the recommendations include a proportionate programme of intrusive investigation and assessment, and further investigation into any potential contamination observed during the demolition works where necessary. The recommendations also state:

'The geotechnical aspects of any intrusive investigations should consider the properties of key founding strata within the context of the required structural loadings and volume change potential of the soils. Consideration should also be given to the implications of groundwater on future excavations and/or drainage solutions in the south western Site corner if fluvioglacial deposits/ shallow groundwater is identified.'

- 5.13.4 On this basis and following advice from Environmental Health, necessary contamination conditions are proposed.

Waste

- 5.13.5 Section C09 of the MDDG states that *'the management of waste needs to be considered early on in the design to avoid inconvenient waste storage for residents, inefficient collections of waste produced or unsightly bin storage areas'*.
- 5.13.6 Limited information has been provided in relation to the provision of waste. However, given that the application is outline in nature and that layout, appearance and landscape are matters reserved for future consideration it is considered that waste could be suitably dealt with as part of the Reserved Matters process.

5.14 Contribution to the Achievement of Sustainable Development

- 5.14.1 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. 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.
- 5.14.2 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.

- 5.14.3 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers, against the harm identified (if any) arising from the proposed development.
- 5.14.4 It is an accepted point of planning law that it is up to the decision makers, in this case the North Western Area Planning Committee, to attribute appropriate weight, as they see fit, to competing material considerations. The High Court has been clear that the matter of weighting is not for the courts. In order to assist the Members of the Committee Officer's consideration of the weighting of the material considerations is set out below and how this applies to the planning balance.
- 5.14.5 The main benefits that weigh in favour of the proposal are considered to be as follows:
- Social benefits from providing market homes in a variety of sizes and types;
 - Social benefits of providing affordable homes in a variety of sizes and types over and above the requirements of policy.
 - The site is considered to be one of the more sustainable in the District where the intrinsic character and beauty of the countryside is not adversely affected.
 - On-site open space would be provided which would be accessible to the general public.
 - There would be off-site highway works that would improve footpaths in the immediate vicinity of the site for the existing residents as well as the potential future occupiers.
 - Economic benefits flowing from the construction phase of the development, where the opportunity exists for sourcing local labour and materials;
 - Social and economic benefits of additional custom for services and facilities in Wickham Bishops;
 - Economic benefits through creating new jobs opportunities in the District;
 - Environmental benefits of the development as a result of the enhancement and provision of landscape and ecological features.
- 5.14.6 The disadvantage of the development, which cannot be mitigated, is considered to be as follows:
- The majority of the site would lie outside of the settlement boundary contrary to policy S8.
- 5.14.7 With regard to the three tests of sustainability, in economic terms, it is reasonable to assume that there may be some support for local trade from the development, and that the additional units may support local businesses in Wickham Bishops. Although, there is no guarantee that the construction would be undertaken by local businesses or use locally sourced materials. Furthermore, there are no additional services and facilities to be brought forward by the development. Although Wickham Bishops is a larger village and so it is unlikely that the increased units would put a significant amount of pressure on the existing services and facilities, this does not weigh in favour of the development, other than a minor benefit of additional custom for the existing shops and facilities.
- 5.14.8 In social terms although the Council can now demonstrate that it has a 5YHLS, this can only be maintained by approval of new permissions on suitable sites and the District still has a shortfall of affordable housing. The proposal would provide 50 homes, 25 of which would be affordable, on a site that is suitable for residential development as evidenced by the conditional support from all the statutory consultees. Although there is no need for additional housing sites currently, given the

5YHLS position, the outline nature of the development means that some of the development will likely come forward beyond the five-year period and therefore, will be beneficial to maintaining the future 5YHLS, which is not a ceiling to development. In contrast to the previous appeal where the LDP was in its infancy, the Council no longer has sufficient provision through the Strategic Allocations to rely on beyond the current five-year period as the majority of the allocated sites have been granted permission and/or built out. The delivery of new housing is a clear benefit of the scheme and reflects a key objective of the NPPF, as highlighted by the previous Inspector. However, this carries limited weight in the planning balance as there has been no housing delivery trajectory provided other than a statement that the site can deliver early within the five-year period.

- 5.14.9 In addition to the above and specifically in respect of the affordable housing, the scheme would provide 10% more affordable housing than required by policy and 4.2 units more than the previous scheme. It has also been evidenced within this report that the need for affordable housing is greater than it was at the time of the previous application and there are limited sites left to deliver to make up the shortfall. Therefore, in accordance with the recent appeal decision at Great Totham the benefit of the affordable housing has increased, and significant weight is given to this in the planning balance.
- 5.14.10 The letters of objection received refer to the Housing Needs Survey which was part of the evidence base that sites behind the WBNDP. The comments refer to the fact that 46 new homes have been granted permission in the village since 2017 and only 42 were needed. However, the Housing Needs Survey is based on a local resident survey undertaken within the Parish of Wickham Bishops and does not reflect the needs of the District.
- 5.14.11 The development would also provide public open space, including an area of play, which would be of value not only to future residents but also the existing community.
- 5.14.12 In environmental terms, the harm would be to the character and appearance of the area by virtue of introducing housing and its related infrastructure into a greenfield site. However, as set out above and as concluded by the previous Inspector there would be no adverse impacts on the intrinsic character and beauty of the countryside or the character and appearance of the wider area. The development, however, would not be for one of the thirteen exception schemes listed within policy S8 and therefore, due to the majority of the site being located outside the settlement boundary, the development is contrary to policy S8.
- 5.14.13 Whilst the starting point for decision making is the LDP and the development is contrary to policy S8, the proposal would deliver a number of benefits, most notably over providing on much needed affordable housing, which would meet the aims of policy H1 as well as the key aims of the NPPF. Therefore, on balance the benefit of granting planning permission is considered to outweigh the impacts on the environment where the development is located outside the settlement boundary. It is therefore recommended that planning permission should be granted subject to the imposition of conditions and all interested parties first entering into a S106 Agreement to secure the necessary obligations, as set out.
- 5.14.14 For the above reasons, although outside of the defined development boundary for Wickham Bishops, the proposal is on balance, judged to be 'sustainable development' through the three-dimension tests of the NPPF and is recommended for conditional approval accordingly. However, it is recognised that it is for the decision makers to attribute the weight they see fit to the competing material considerations.

6. **OTHER MATTERS**

- 6.1 The Council has successfully defended an appeal at Land North of Crabbs Farm, Back Lane, Wickham Bishops (21/01098/FUL, APP/X1545/W/22/3308846). This case has been raised in the public representations highlighting that the Council in fighting this appeal had highlighted that the presence of a 5YHLS gives the Council greater flexibility in considering the sustainability of residential developments. The representations therefore state that there should no longer be a presumption in favour of sustainable development.
- 6.2 The presumption in favour of sustainable development is a key aim of the NPPF. Where there is a 5YHLS this relates to *'approving development proposals that accord with an up-to-date development plan without delay'* and does not involve the 'Tilted Balance'. Therefore, the balancing exercise set out above in section 5.14 does not rely on the 'Tilted Balance' but recognises the weight to be given to the up-to-date LDP policies.
- 6.3 In terms of the flexibility the 5YHLS gives to the decision maker this has been highlighted in the Principle of Development section of the report. However, it should be noted that the provision of one dwelling which has been considered to result in landscape and character harm and would provide no affordable housing would have significantly less benefits than this scheme and is not comparable. Furthermore, Crabbs Farm is located in a different location of the village and therefore, the accessibility credentials to the appeal site, which has already been found to be accessible along with other nearby applications for dwellings is different. Nevertheless, the Inspector nor the Council raised issue with the accessibility of Crabbs Farm.

7. **ANY RELEVANT SITE HISTORY**

- **15/01342/OUT** – Outline planning permission for demolition of existing dwelling and erection of up to 52 residential dwellings with associated vehicular access. Appeal dismissed 18 December 2017.

8. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Wickham Bishops Parish Council	<p>Object –</p> <ul style="list-style-type: none">• The local community are not in support• Contrary to Policy S8• Not a 'suitable' site in the HELAA.• The density is not reflective of the surrounding area.• The site notice was removed	<ul style="list-style-type: none">• The views of the Local community have been taken into account during the assessment of the application.• Addressed at sections 5.1, 5.5 and 5.18.• Addressed at section 5.1• Addressed at section 5.5• The development has

Name of Parish / Town Council	Comment	Officer Response
	<p>early</p> <ul style="list-style-type: none"> • Lack of safe pedestrian and cycle access • Viability splays would not comply with the Manual for Streets • The walking distance of 960 metres to the nearest bus stop does not meet the maximum distance of 400m set out in national and Essex guidance. • The traffic count is out of date (2015) and cannot be relied upon. • Mope Lane and Wickham Hall Lane are narrow and not suitable for the 77% additional traffic expected to use them. • Para. 111 of the NPPF – Parish’s view that the development would have a major and unacceptable impact on highway safety. • Lack of health care provision in the area. • Lack of school provision in the area. • The Neighbourhood Development Plan is not out of date. The development is contrary to NDP policies: <ul style="list-style-type: none"> • WBF 02 sustainable means of travel • WBF 03 capacity of local highway network • WBH 01 respecting the local character, historic setting and natural assets of the surrounding area • 78 trees are to be lost. The 	<p>been advertised in accordance with the requirements set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015</p> <ul style="list-style-type: none"> • Addressed at section 5.8 • The Local Highways Authority has confirmed that the visibility splays are acceptable • Addressed at sections 5.1 and 5.8 • There have not been significant changes to the Local Highway network that would be considered to result in substantially different results. • The increase in movements during peak hours is not considered to materially impact on the highway network. • Addressed at section 5.8 • Addressed at section 5.4 • Addressed at section 5.4 • Addressed at sections 5.5 and 5.8 • Addressed at section

Name of Parish / Town Council	Comment	Officer Response
	<p>majority have already been removed. Contrary to, para. 131 of the NPPF, WBen 02 of the NDP and the previous Inspectors findings.</p> <ul style="list-style-type: none"> Isolated enclave with poor links to the village and would not integrate into the existing grain and form of the village. Lack of streetlights causing safety issues 	<p>5.11</p> <ul style="list-style-type: none"> Addressed at sections 5.1 and 5.5 A sensitive lighting scheme protecting ecology as well as the character of the area can be secured by way of a condition.

8.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Local Highways Authority	<p>The proposal is not contrary to current national/local highways and transportation planning policy or current safety criteria.</p> <p>The access arrangements have appropriate geometry and visibility splays onto Church Road for the speed of the road.</p> <p>The Transport Statement demonstrates that the existing vehicle flows and speeds along Church Road are low and so the development will not have a significant or severe impact in this location or the wider road network.</p> <p>The possibility of providing a new footway to the existing junction with Leigh Drive is not achievable due to the lack of highway land. However, given the low speeds and traffic flows and size of the development, it would not be detrimental to pedestrian safety if no continuous footway connection was provided. This is similar to most of the existing routes through the village where there are no continuous footways. Other improvements have</p>	Addressed at section 5.8

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>been suggested if land ownership allows.</p> <p>The site is well located within good distance of services and facilities within Wickham Bishops, and consequently, the Highway Authority is satisfied that the proposal will not be detrimental to highway safety, capacity, or efficiency.</p> <p>Three conditions are recommended:</p> <ul style="list-style-type: none"> • A Construction Management Plan • Visibility Splays • Residential Travel Information Pack. 	
Natural England (NE)	<p>No objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites (European Sites)</p> <p>The LPA as the Competent Authority must carry out a Habitats Regulation Assessment before making a decision.</p>	Addressed at section 5.12
Essex County Council Education	<p>Development has been assumed to be of houses of 2 or more bedrooms. It is expected to generate a need for up to 4.5 Early Years and Childcare places, 15 Primary and 10 Secondary School places.</p> <p>There were 0 unfilled Early Years places for this ward and a contribution of £77,706 index linked to Q1-2020 is sought to mitigate the impact, equating to £17,268 per place.</p> <p>Great Totham Primary cannot be significantly expanded as was slightly oversubscribed in October 2022.</p> <p>The Essex School Organisation Service's 10 Year Plan includes a new primary school at Limebrook Way and this development could instead contribute to that project.</p> <p>The contribution would be required towards a new facility equating to £259,202 index linked to Q1-2020,</p>	Addressed at section 5.4

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>equating to £17, 286 per place.</p> <p>Secondary School – the developnetn would be within the Priority Admissions Area of the Plume School but The Maltings Academy in Witham is closer. The Plume has been slightly over its admission number in recent years and The Maltings has been full in year 7 for the past 2 years. The Essex School Organisation Service's 10 Year Plan includes plans to extend both schools.</p> <p>A developer contribution of £237, 750 index linked to Q1-2020, £23,775 per place is sought to mitigate the impact.</p> <p>A contribution toward Post16 education is not required. However, an Employment and Skills Plan (ESP) should be developed to set out how the developer will engage with and maximise local labour and skill opportunities.</p> <p>As there are no current safe walking routes a Secondary School Transport contribution of £49,780 Index Linked to Q2-2021 is required.</p> <p>The suggested population increase brought about by the proposed development is expected to create additional usage of the nearest library. A developer contribution of £3,890 is therefore considered necessary to improve, enhance and extend the facilities and services provided. This equates to £77.80 per unit, index linked to April 2020.</p> <p>A monitoring fee of £550 per obligation is required.</p>	

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
NHS	<p>Likely impact on the services of the Fern House Surgery: Kelvedon Road Surgery which operates within the vicinity of the application site. The GP practice does not have capacity for the growth resulting from the development and cumulative development in the area.</p> <p>The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. The ICS would therefore expect these impacts to be fully assessed and mitigated.</p> <p>The development could generate approximately 120 new residents and increase demand on constrained services.</p> <p>There is a requirement of 8.2m² of additional floorspace to meet the growth which equates to £24,700</p>	Addressed at section 5.4
Essex Police	<p>The Essex Design Guide acknowledges the strategic principles and Essex Police objectives for the creation of safe and secure communities and sustainable police estate provision.</p> <p>The Essex Police Designing Out Crime response will be provided separately.</p>	Noted
Environment Agency	No response received at the time of writing this report	Noted, it is expected that the Environment Agency would not respond to a development of this scale where there are no known flood issues.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Lead Local Flood Authority	<p>No objection subject to conditions:</p> <ul style="list-style-type: none"> • A Surface Water Drainage Scheme • A scheme to minimis the risk of offsite flooding caused by surface water run-off and groundwater during construction works and to prevent pollution. • Maintenance plan detailing maintenance arrangements • Yearly logs of maintenance 	Addressed at section 5.10
Archaeology	<p>The Essex Historic Environment Record (EHER) records that there is Iron Age and Roman sites, including cremation burials immediately to the west of the proposed development area (EHER 8221-2, 8226-7, 17764-5), to the east is the historic core of medieval and post-medieval village, as demonstrated by the distribution of Listed Buildings.</p> <p>An archaeological desk-based assessment has been submitted with the planning application.</p> <p><i>This states that ‘The proposed development may have an impact on any sub-surface archaeological remains existing within the PDA. Such remains are likely to include former field boundaries of medieval or earlier date which would be of low sensitivity. They may also include Iron Age or Romano-British settlement remains or field systems, which would also be considered to be of low sensitivity’.</i></p> <p>The archaeological DBA assesses the archaeological potential as low for all periods, we would consider this to be an under-estimate in that any Iron Age or Romano-British archaeological remains present have the potential to be of moderate-high potential.</p> <p>Given the proposed scale of this development and the fact that archaeological deposits are both fragile and irreplaceable, any permitted development on site should be preceded by a programme of</p>	Addressed at section 5.17

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	archaeological investigation which should be secured by an appropriate condition attached to any forthcoming planning consent. This is in line with advice given in the National Planning Policy Framework.	
Anglian Water Services	<p>The foul drainage is in the catchment of Great Totham Water Recycling Centre that will have capacity to accept the flows.</p> <p>The foul water connection is considered acceptable and does not require a condition.</p> <p>The surface water drainage scheme is outside of the jurisdiction of Anglian Water.</p>	Addressed at section 5.10
British Telecom	No response received at the time of writing this report	Noted – a response is not considered necessary to determine this application and this is not a Statutory Consultee
Cadent Gas Network	No response received at the time of writing this report	Noted – a response is not considered necessary to determine this application and this is not a Statutory Consultee
UK Power Networks	No response received at the time of writing this report	Noted – a response is not considered necessary to determine this application and this is not a Statutory Consultee
Essex Wildlife Trust	No response received at the time of writing this report	Noted – a response is not considered necessary to determine this application and this is not a Statutory Consultee
The Royal Society for the Protection of Birds (RSPB)	No response received at the time of writing this report	Noted – a response is not considered necessary to determine this application and this is not a Statutory Consultee

8.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Ecology	<p>03.04.2023 Holding Objection:</p> <ul style="list-style-type: none"> • Further surveys to determine the presence/likely absence of bats may be required depending on the level of roosting potential. • The results of presence/likely absence surveys should be submitted prior to determination of the application. • The results are required prior to determination in line with paragraph 99 of the ODPM Circular 06/2005 and will enable the Local Planning Authority to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 and prevent wildlife crime under s17 Crime and Disorder Act 1998. • A project level HRA Appropriate Assessment is required to secure a per dwelling tariff in relation to RAMS is required to mitigate recreational impacts. <p>13 July 2023</p> <ul style="list-style-type: none"> • The mitigation measures identified in the Ecological Assessment (Ecology Solutions, June 2023) 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 Badger, nesting birds and Hedgehog. • A Construction Environmental Management Plan for Biodiversity (CEMP) should also be a condition to mitigate potential impacts to any retained and adjacent habitat. • The recommendations within the Ecological Assessment are also supposed to secure net gains for Biodiversity. • A sensitive lighting scheme should be conditioned if any are proposed. 	Addressed at section 5.11

Name of Internal Consultee	Comment	Officer Response
Environmental Health	<p>No objection subject to conditions:</p> <ul style="list-style-type: none"> • Foul drainage • Construction Management Plan • Investigation and risk assessment for pollution • Remediation Scheme 	These matters are addressed at sections 5.70 5.10 and 5.17
Conservation Officer	<p>No objection - The nearest designated heritage asset to the application site is Abbots, 3 Church Road, which is Grade II Listed.</p> <p>This is a handsome, late-Georgian house, built of red brick, with a hipped slate roof. Its front elevation is a symmetrical composition of sash windows and a central door framed by a classical, pedimented surround. The listed building's significance derives mainly from its architectural interest as a good example of a late-Georgian brick house. An old low red brick wall along its front boundary complements the setting of the house. The property has been extended to its sides and rear in a broadly sympathetic manner. The end of Abbots' long rear garden adjoins the application site. To the east of Abbots there are two modern houses between it and the proposed access to the development.</p> <p>Although the development would adjoin the rear garden of Abbott's, the rear garden is long and the application site is some distance from the listed building itself. The application site does not form an important part of the setting of the listed house. The development would have little, if any, impact upon the ability to appreciate the significance of the listed building. I therefore, envisage no harm to the setting or significance of the listed house.</p> <p>The proposal poses no conflict with Policy D3 of the LDP, chapter 16 of the NPPF or the duty set out in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p>	Addressed at section 5.8

Housing	<p>The Outline Application (OUTM/MAL/23/00123) is proposing an Outline planning application with the matters of access for consideration for the demolition of 9 Church Road, creation of new access and the development of up to 50 dwellings including associated car parking, open space and landscaping. The Application is proposing up to 50 residential dwellings and therefore is classed as a major development which requires the provision of Affordable Housing as per the National Planning Policy Framework Feb 2019 and the Planning Practise Guidance. Policy H1 of Maldon District Council's Approved Local Development Plan 2014-2029 identifies a 40% Affordable Housing requirement which equates to 20 Affordable Homes.</p> <p>The Maldon District Council Local Housing Needs Assessment 2021 identifies a tenure mix of 75% Rented and 25% Intermediate Affordable Housing. The breakdown of sizes of Market and Affordable units is as follows –</p> <p>"Market</p> <p>1 bed - Up to 10%</p> <p>2 bed - 25-35%</p> <p>3 bed - 40-50%</p> <p>4 bed+ - 15-25%</p> <p>Affordable Ownership</p> <p>1 bed - 15-25%</p> <p>2 bed - 35-45%</p> <p>3 bed - 25-35%</p> <p>4 bed+ - 5-15%</p> <p>Affordable Rented</p> <p>1 bed - 30-40%</p> <p>2 bed - 30-40%</p> <p>3 bed - 20-30%</p> <p>4 bed+ - Up to 10%"</p> <p>Also stipulated in this document is –</p> <p>"The Council should consider requiring all dwellings in all tenures to meet the M4(2) standards as a starting point - which are similar to the Lifetime Homes Standards - and at</p>	Addressed at section 5.3 and 5.18
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	<p>least 10% of homes meeting Part M4(3) – wheelchair user dwellings (with a higher percentage for affordable housing)." and with regards to sizes of units.</p> <p>The Affordable units would need to be developed to Nationally Designed Space Standards to meet the needs of larger families on the Housing Register –</p> <p>1 bed 2 person bungalow/flat – 50 sqm 1 bed 2 person house – 58 sqm 2 bed 4 person flat – 70 sqm 2 bed 4 person house – 79 sqm 3 bed 5 person house – 93 sqm. 4 bed 7 person house – 115 sqm – rent set would need to be Social Rent to ensure affordability.</p> <p>To meet the increasing need for affordable housing for older people, Strategic Housing would be requesting 1 bed 2 person bungalows (semi-detached or terraced) as part of the requirement percentage of smaller affordable homes and that these are rented units with wet rooms/showers.</p> <p>The gross costs of the affordable units (rent/service charge) have to be within Maldon District Council's Strategic Tenancy Strategy and delivered by a Registered Provider/ Housing Association who are recognised and regulated by Homes England and eligible for funding from Homes England.</p> <p>The Affordable Scheme detailing tenure, cost, allocation of units is to be agreed by Maldon District Council's Housing Department as part of the Section 106 Agreement.</p> <p>The Council has always sought to seek on-site contribution towards affordable housing as per policy H1. This does not preclude the possibility of this not always being viable, but it does require evidence to justify where it is not possible. The Applicant should have in place and be able to submit if required a financial appraisal that illustrates this to be the case (as a benchmark for any subsequent</p>	
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	<p>changes). Should the Applicant then seek to reduce the level of affordable housing because of financial viability, they should first engage with the Council to see if possible to protect the original % of affordable through use of grant.</p> <p>The Applicant has advised that they will be meeting the 40% Affordable Housing requirement.</p> <p>Strategic Housing would welcome further discussion regarding size and tenure of the affordable units if the Application progresses.</p> <p>Strategic Housing Services fully supports this Application which is providing the required percentage of Affordable Housing and these properties will greatly assist in meeting the Housing needs of the district.</p>	
Arboricultural Consultant	<p>No objection:</p> <ul style="list-style-type: none"> • Of the trees to be removed 46 are category B trees and 1 Category V group, which is a material planning consideration. Significant replacement planting has been outlined to mitigate against the loss. The rooting areas of new planting will need to be considered, including the design of any planting pits on land likely to be adopted by the Highways Authority. Cellular systems should be considered where soil volume is likely to be restricted due to construction or hard surfacing, as part of any drainage schemes SuDs water systems in relation to trees should be considered as a viable method of urban water management and tree maintenance. • 8 trees and 1 group have encroachments into the Root Protection Area but they are minimal and would not be detrimental to the trees. Excavations and pruning will be in line with BS3998:2010 'Tree Works'. 	Addressed at section 5.11

	<ul style="list-style-type: none"> • Tree protection will be in line with BS5837 (2012) with adjustment to be made where hard standing is present acting as ground protection within the RPA. Due to the proximity of the proposed housing to nearby trees reference should be made with regards to the foundations in line with NHBC standard 4.2 guidelines as to foundation depth near trees. This is to prevent potential tree removals in future due to issues such as subsidence • Although there is a significant loss of trees on site the scheme has incorporated many of the individual trees within the site as part of the development. Those trees that have been listed for removal would be difficult to incorporate within the development due to their positioning and would have meant the loss of other high value trees on site. The provided landscape plan also indicates substantial planting on site to compensate for the loss. • As long as the measures outlined within the AIA are followed those trees that are retained on site should not be detrimentally impacted by the proposed works. A finalised Landscaping plan, Arboricultural Method Statement and Tree Protection Plan should be conditioned if the application is granted. 	
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8.4 Representations received from Interested Parties

8.4.1 **204** letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objecting Comment	Officer Response
Concerns regarding traffic and highways safety	Addressed at section 5.8
Concerns with increasing numbers of additional vehicles	Addressed at section 5.8
Roads leading up to the site are narrow roads	The increase in vehicle numbers will not be material as to make a demonstrable impact
Inadequate road surfaces which need upgrading	A development cannot be required to alleviate and existing issue.

Objecting Comment	Officer Response
Lack of facilities such as nursery, schools, doctors, dentists and local shops	Addressed at section 5.4
No pavements along majority of its length causing pedestrian safety concerns	Addressed at sections 5.1 and 5.8
Wildlife concerns	Addressed at section 5.11
Concerns regarding the erosion of rural land	Addressed at section 5.5
Concerns regarding the quality of life to those already living in the area	Addressed at section 5.7
Outside the Wickham Bishops settlement boundary	Addressed at section 5.1, 5.5 and 5.18
Housing proposed appears out of keeping with the area	Appearance is a matter reserved for later consideration
Poor sustainable access and discouraging community integration	Addressed at sections 5.1 and 5.8
It is a Greenfield site	This alone is not a reason to object to an application
Concerns with privacy, overlooking into the properties within Mope Lane	Addressed at section 5.7
Strongly believe previous refusals in 2015 and 2017 should be upheld	Noted
Concerns that the development will create a flood risk	Addressed at section 5.10
Concerns with Pollution	Addressed at section 5.9
50 houses for the size of the plot is too high a density	Addressed at section 5.5
Negatively affect natural sunlight to existing adjacent properties	Addressed at section 5.7
Concerns with the very limited street lighting	Sensitive streetlighting can be secured by way of a condition
Development will attract further development to the area	Each application must be assessed on its own merits
The site has been viewed negatively in the HELAA	Addressed at section 5.1
Lack of employment opportunities	Addressed at section 5.1
Concerns with noise pollution and smell	Addressed at section 5.7. Residential development will cause no greater noise and odour impacts than neighbouring residential uses.
Destruction of ecosystems and impacts on biodiversity, disregarding the habitat of birds, animals, insects, ancient hedgerows and diverse fungi species	Addressed at section 5.11
Increase in demand for drainage and water supply	Addressed at section 5.11
Council can demonstrate a 5YHLS	Addressed at sections 5.1 and 5.18
Does not address the needs of people with disabilities and reduced mobility	A proportion of the development will be required to deliver lifetime homes
No intention for the developer to implement EV charging at this site	Each dwelling will be required to provide at least one vehicle charging point that will be secured by way of a condition
Need goes above the local housing needs survey undertaken in 2017 – there have already been 46 new homes built in the Village	Addressed at section 5.18

Objecting Comment	Officer Response
Lack of choices for people in how they travel to and from Wickham Bishops	Addressed at section 5.1.
Concerns that the roads are too dangerous to cycle on	Addressed at section 5.1
Concerns on the health, safety and well-being of existing residents	Addressed at section 5.4
Negatively affect the special views and vistas.	Addressed at section 5.5
Concerns that the proposed enclave discourages social interaction and does not have the facilities to “enable and support healthy lifestyles	Addressed at section 5.1
Increase the housing stock by more than 5% with detrimental impact on traffic in a rural area	Addressed at section 5.8
The NPPF at para. 126 states that applications should help ... ‘make developments acceptable to the community’	This paragraph relates to engagement and its value in designing schemes. Whilst Applicants should engage with the local residents it is also acknowledged it will not always be possible to achieve a favourable outcome.
Contrary to policies: <ul style="list-style-type: none"> • WBF 02 • WBF 03 • WBH 01 • WBEN 02 of the Wickham Bishops Neighbourhood Development Plan.	Addressed at sections 5.5, 5.8 and 5.11
Site is too far from a bus stop which is contrary to national and Essex Highways Policy	Addressed at section 5.8
The reasons for refusal for application 23/00459/OUTM at Land West of Spratts Farm, Queenborough Road, Southminster, particularly noise disturbance relating from the access applies to this scheme.	The developments are materially different in terms of scale and location. Each application must be assessed on its own merits.

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

HEADS OF TERMS OF ANY SECTION 106 AGREEMENT

General Obligations:

- Provide and retain in perpetuity private community open spaces and strategic landscaping in accordance with agreed phasing and details.
- Create / nominate a Management Company with responsibility for future management and maintenance of all private open spaces, non-adopted footways, related lighting, street furniture, signage etc. and all private landscaping.
- Identify the extent of, provide, and landscape the public open spaces to an agreed specification before the first occupation of the development.

Affordable Housing Obligations:

- The total number of affordable housing units shall be not less than 50% of the total number of dwellings approved by the Planning Permission.
- Affordable housing to be provided pursuant to an Affordable Housing Scheme (AHS) to control the type, tenure, location and design standards.
- Affordable housing tenure split shall be 75% affordable rent / 25% intermediate housing or as close as possible thereto unless otherwise agreed in an AHS.
- All affordable housing to be constructed and transferred to Registered Provider/s prior to first occupation of the development.

Health Care Contributions:

- To make developer contributions in the circumstances set out in the NHS consultation response.

Highways Obligations:

- Submit, agree and implement a Residential Travel Plan.

Ecology:

- To provide a developer contribution in accordance with the Council's adopted RAMS scheme.

Education:

- Provide developer contributions for education, including for Early Years, Primary School, Secondary School, Libraries and Secondary School transport, in the circumstances set out in the Essex County Council Education Department consultation response.

PROPOSED CONDITIONS**Reserved Matters:**

- 1 Details of the appearance, landscaping, layout and scale (hereinafter called "the Reserved Matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
REASON: To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
- 2 Application(s) for approval of the Reserved Matters shall be made to the Local Planning Authority 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).

Timing:

- 3 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 Local Planning Authority. 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.

Landscaping:

- 4 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 Local Planning Authority. 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, not required to be removed to allow for the access hereby approved, shall be retained and maintained at all times thereafter, unless otherwise agreed with the Local Planning Authority.

The details of the soft landscape works shall include:

- Details of proposed schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers / densities.
- Details of the planting scheme implementation programme, including ground protection and preparation, weed clearance, stock sizes, seeding rates, planting methods, mulching, plant protection, staking and/or other support.

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 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 commencement of the development, unless otherwise first 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, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.

REASON: To 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 policies D1 and N2 of the Maldon District Development Local Plan and the guidance contained in the Maldon District Design Guide SPD.

Car Parking:

- 5 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).

- 6 Each dwelling shall be provided with at least one vehicle charging point prior to the first occupation.
REASON: In the interest of sustainable transport in accordance with Policy T2 of the Maldon District Local Development Plan.

Cycle Parking:

- 7 A scheme in accordance with Maldon District Council's adopted standards for cycle parking shall be submitted to, and approved in writing by, the Local Planning Authority. 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 Local Development Plan.

Dwelling Mix:

- 8 The dwelling mix for the development hereby approved shall be agreed as part of the Reserved Matters application(s) and shall accord with the housing mix requirements set out within the Maldon District Local Housing Needs Assessment 2021 unless otherwise agreed in writing by the Local Planning Authority.
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.
- 9 The development hereby approved shall be carried out in a manner to ensure that 10% of proposed residential accommodation, including affordable housing, hereby approved comply with building regulation M4 (3) 'wheelchair user dwelling'. The remainder of the dwellings in all tenures should meet the M4(2) 'accessible and adaptable dwellings' standards.
REASON: To ensure the residential units hereby approved provide high quality and flexible internal layouts to meet the needs of an aging population in accordance with policy H3 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework and the Maldon District Specialist Needs Housing SPD (2018).

Building Heights:

- 10 The height of the buildings submitted as part of the Reserved Matters shall not exceed two storeys or 9 metres.
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 Maldon District Design Guide SPD.

Ecology / Biodiversity:

- 11 All mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Ecology Solutions, June 2023) as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination of Reserved Matters.

This may include the appointment of an appropriately competent person e.g. an Ecological Clerk of Works (ECoW) to provide on-site ecological expertise

during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

REASON: To conserve and enhance protected and Priority species in accordance with Policy N2 of the Maldon District Local Development Plan 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 National Environment and Rural Communities (NERC) Act 2006 (Priority habitats & species).

- 12 A Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority prior to the determination of the Reserved Matters.

The CEMP (Biodiversity) shall include the following:

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

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

REASON: To conserve protected and Priority species in accordance with Policy N2 and 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).

- 13 A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall be submitted concurrent with the Reserved Matters.

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.

REASON: To enhance protected and Priority species & habitats in accordance with Policy N2 of the Maldon District Local Development Plan and

allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

- 14 Prior to the commencement of development details of the external lighting strategy for the site including the luminance and spread of light and the design and specification of the light fittings shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and 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 minimise light pollution upon nearby property including residential properties, the adjoining rural countryside and in the interests of biodiversity and ecology in accordance with policies D1, D2 and N2 of the Maldon District Local Development Plan.

Archaeology:

- 15 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 safeguard any archaeological remains found present on the site in accordance with Policy D3 of the Maldon District Local Development Plan 2014 – 2029.

- 16 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 safeguard any archaeological remains found present on the site in accordance with Policy D3 of the Maldon District Local Development Plan 2014 – 2029.

Drainage:

- 17 No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The Construction Industry Research and Information Association (CIRIA) Sustainable Drainage Systems (SuDS) Manual C753.
- Limiting discharge rates to 1.7l/s for all storm events up to and including the 1 in 100 year rate plus 45% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Demonstrate the capacity of the receiving ditch to accept and discharge the flow.
- 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, *OR, if impracticable.*
- Demonstrate that features are able to accommodate a 1 in 10 year storm event within 24 hours of a 1 in 30 year event plus climate change.
- 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, Finished Floor Level (FFL) and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, ensure effective operation of SuDS features over the lifetime of the development and to provide mitigation of any environmental harm which may be caused to the local water environment in accordance with policy D2 of the Maldon District Local Development Plan 2014 – 2029

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

REASON: To ensure the development does not increase flood risk elsewhere and does not contribute to water pollution in accordance with paragraphs 163 and 170 of the National Planning Policy Framework and policy D2 of the Maldon District Local Development Plan 2014 - 2029.

- 19 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, shall be submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long-term funding arrangements 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 in accordance with paragraphs 163 and 170 of the National Planning Policy Framework and policy D2 of the Maldon District Local Development Plan 2014 - 2029.

- 20 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 paragraphs 163 and 170 of the National Planning Policy Framework and policy D2 of the Maldon District Local Development Plan 2014 - 2029.

- 21 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 prevent environmental and amenity problems arising from flooding and in accordance with policy D2 of the Maldon District Local Development Plan 2014 – 2029.

Construction Management Plan:

- 22 Prior to the commencement of the development the applicant shall submit in writing a Construction Management Plan to the Local Planning Authority for approval.

The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for the following all clear of the highway:

1. Safe access into the site;
2. The parking of vehicles of site operatives and visitors;
3. Loading and unloading of plant and materials;
4. Storage of plant and materials used in constructing the development;
5. Wheel and underbody washing facilities.

REASON: To ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and to ensure that on-street parking of construction 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 to comply with Policy D2 of the Maldon District Local Development Plan 2014 - 2029.

Contamination:

- 23 No development shall take place, other than that required to carry out 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 by the Local Planning Authority in writing. 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:
 - a) Human health,
 - b) Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - c) Adjoining land, Groundwaters and surface waters,
 - d) Ecological systems
 - e) 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 the Environment Agency's 'Land Contamination Risk Management' guidance and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers'.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. To comply with Policy D2 of the Maldon District Approved Local Development Plan 2014 – 2029.

- 24 Where identified as necessary in accordance with the requirements of condition 23. no development shall take place, other than that required to enable or carry out remediation, 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 by the Local Planning Authority in writing. 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 remediation scheme have been implemented. Exceptions may apply where remediation is incorporated as part of the wider development and cannot be completed prior to commencement. Such circumstances shall be highlighted in the remediation scheme submitted for approval.

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 and submitted to the Local Planning Authority within 28 days.

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

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 Local Planning Authority.

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

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. To comply with Policy D2 of the Maldon District Approved Local Development Plan 2014 – 2029.

- 25 Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to the Local Planning Authority for approval in writing. These approved schemes shall be carried out before the development is resumed or continued. Following completion of measures identified in the approved remediation scheme, a verification report demonstrating the effectiveness of the remediation scheme carried out must be submitted to the Local Planning Authority for approval in writing.

REASON: To ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and to comply with Policy D2 of the Maldon District Local Development Plan 2014 - 2029.

Arboricultural:

- 26 No development shall commence until information has been submitted and approved in writing by the Local Planning Authority in accordance with the requirements of BS5837:2012 in relation to tree retention and protection as follows:

- Tree Protection Plan;
- Arboricultural Method Statement (including drainage service runs and construction of hard surfaces).

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

REASON: To ensure that appropriate tree protection and retention the interests of ecology and the character and appearance of the area in accordance with Policies S1, D2 and N2 of the Maldon District Local Development Plan 2014.

Highways :

27 Prior to first occupation of the development the access arrangements, visibility splays and off-site highway works, as shown in principle on Phil Jones Associates drawing no.06327-TR-0001-P5, dated 29-03-23, shall be fully implemented, and maintained as such for the life of the development. It shall include, but not be limited to, the following:

- Provision of visibility splays of 2.4m x 43m clear to ground level;
- A bellmouth access with a minimum of 6m radii, with pedestrian crossing points as agreed;
- Provision of a 2m wide footway along the site frontage with a pair of dropped kerb crossing points, with tactile paving, across Church Road to the east of the access;
- All widening of the existing footways shall be to a minimum width of 2m, or as wide as the existing highway boundary allows, and shall include full depth reconstruction to the existing as necessary.

The details shall be submitted to and agreed in writing by the Local Planning Authority.

REASON: To ensure that safe and appropriate access is provided and promoting sustainable and accessible development and transport in accordance with Policies S1 and T1 of the Maldon District Local Development Plan.

28 Prior to first occupation of the development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

Broadband:

29 A strategy to facilitate superfast broadband for the future occupants of the dwellings hereby approved, either through below ground infrastructure or other means should be submitted to the Local Planning Authority for approval in writing as part of the Reserved Matter application(s). The method to facilitate superfast broadband shall be implemented in accordance with the approved strategy prior to the occupation of the appropriate building.

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

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

**to
NORTH WESTERN AREA PLANNING COMMITTEE
13 SEPTEMBER 2023**

Application Number	23/00024/FUL
Location	Slate Hall Cottage, Lower Burnham Road, Stow Maries, CM3 6SG
Proposal	Demolition of the existing dwelling and the erection of two dwelling houses, landscaping and associated parking and visibility splays
Applicant	Mr Hollington
Agent	N. Bushell of Arcady Architects
Target Decision Date	09.03.2023
Case Officer	Jonathan Doe
Parish	STOW MARIES
Reason for Referral to the Committee / Council	Member Call In by Councillor S White with regard to Policies S1 and D1

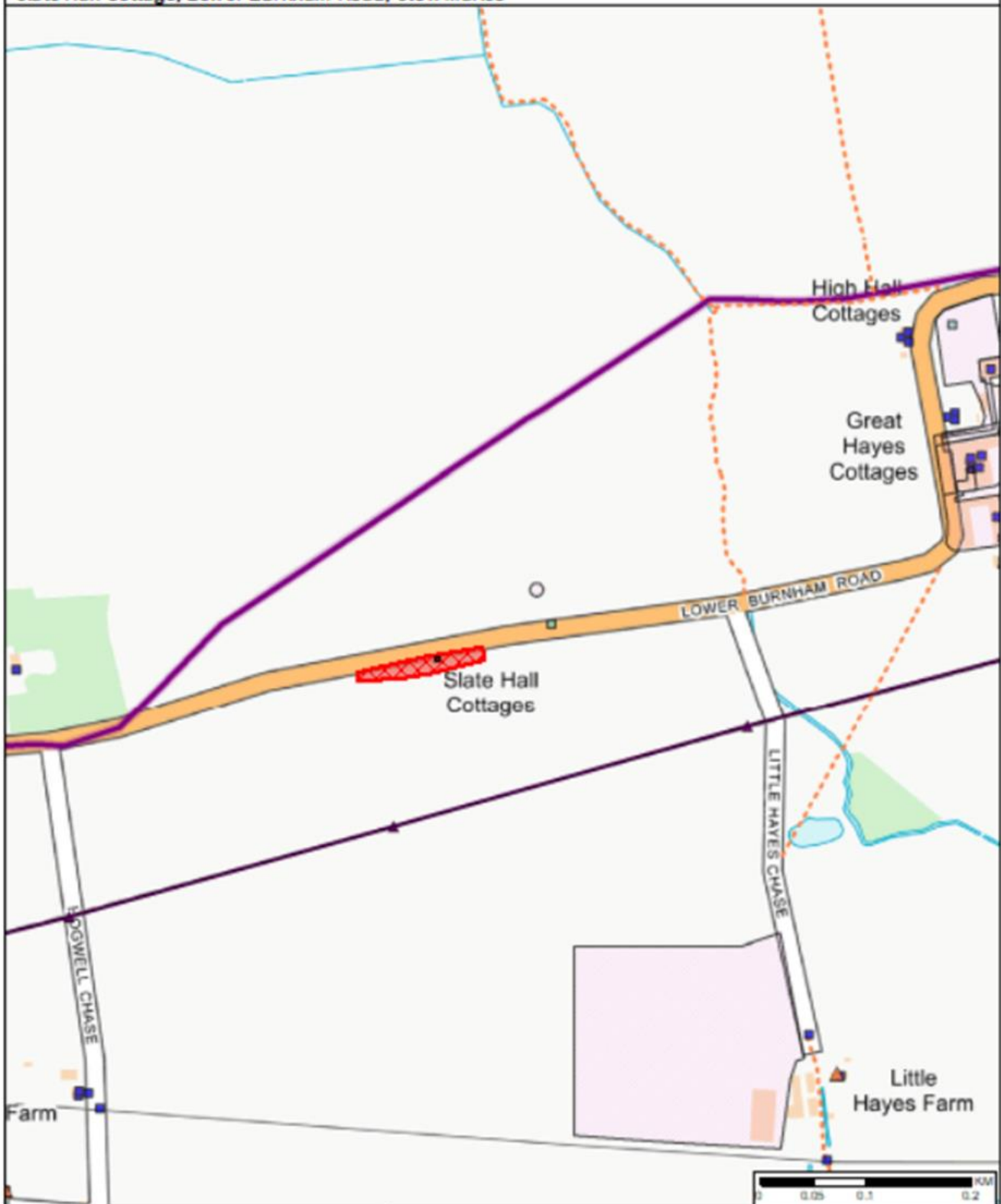
1. RECOMMENDATION


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

2. SITE MAP

Please see below.

Application reference 23/00024/F UL
Slate Hall Cottage, Lower Burnham Road, Stow Maries



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Not Set
	Date:	22/08/2023
	MSA Number:	100018588
www.maldon.gov.uk		

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Site description

- 3.1.1 The site is that of a bungalow and its curtilage on the southern side of Lower Burnham Road, the B1012. The dwelling on the site has been formed from a pair of semi-detached bungalows. This is discussed below.
- 3.1.2 The site is in open countryside with South Woodham Ferrers to the west and the village of Stow Maries and North Fambridge to the northeast and east respectively. To the south of the site land falls in level to the River Crouch.
- 3.1.3 The site has a linear shape running parallel with the road. The site has an area of 0.19 hectares. The site is surrounded by agricultural fields and there is agricultural land on the opposite side of the road, to the north of the site.
- 3.1.4 The site is outside any Settlement Boundary.

Description of proposal

- 3.1.5 The proposal is to demolish the existing dwelling and erect two dwellinghouses with landscaping, associated parking and visibility splays to the vehicular access.
- 3.1.6 The existing vehicular access to the site is some 55m from the western end of the site frontage. A new vehicular access some 67m from the western end of the site frontage would be created. The new vehicular access would serve both proposed dwellings.
- 3.1.7 The dwellings proposed, to replace the existing dwelling, would be two-bedroom detached bungalows. In terms of appearance each bungalow would be a handed version of the other. The bungalows would have side gable roofs and a gabled front canopy.
- 3.1.8 The proposed bungalows would be set adjacent the rear boundary of the plot, the southern boundary, and thereby be set deeper into the very shallow plot than the existing built form. The existing bungalow is effectively hard on the highway, adjoining the front site boundary. The proposed bungalows would be set by the rear boundary and be either side of parking and manoeuvring area just behind the shared vehicular access.
- 3.1.9 Each bungalow would be 15.5m wide by 6.75m deep with a maximum height of 5.4m to the roof ridge, 2.6m to the eaves. External materials would be featheredged boarding on a soft red brick plinth and slate roof tiles.

3.2 Conclusion

- 3.2.1 The proposal would represent an additional dwelling in the open countryside. The proposal would detract from the intrinsic character and beauty of the countryside and be unsustainable development by virtue of its location. These demerits are considered to outweigh merits of an improved highway access and efficient use of land.
- 3.2.2 Therefore, it is recommended below that planning permission is refused for the development proposed.

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
- 55-58 Planning Conditions and Obligations
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-134 Achieving well-designed places
- 174-182 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H2 Housing Mix
- H3 Accommodation for 'Specialist' Needs
- H4 Effective Use of Land
- N2 Natural Environment, Geodiversity and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services

4.3 Relevant Planning Guidance / Documents:

- Car Parking Standards
- National Planning Policy Guidance (NPPG)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Council is required to determine planning applications in accordance with its Local Development Plan (LDP) unless material considerations indicate otherwise (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 paragraph 47 of the National Planning Policy Framework (NPPF).
- 5.1.2 Policy S1 of the approved Maldon District LDP seeks to support sustainable developments within the defined settlement boundaries.
- 5.1.3 Policy S8 of the LDP defines the settlements of the Maldon District within which development is to be generally directed. The policy goes on to state that the

countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. Outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided that the development falls within one of thirteen specific, defined categories (Policy S8: a-m). The proposal meets none of the criteria.

5.1.4 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'.

5.1.5 The application site is located outside any defined settlement boundary and as such the proposal is contrary to Policy S8 of the LDP. However, the impact of the proposed development on the character and intrinsic beauty of the countryside should be assessed as well as whether the development constitutes sustainable development.

5.1.6 The proposal is for replacement dwellings, one being replaced by two, and replacement dwellings is the subject of an element of Policy H4. The proposal meets all criteria for replacement dwellings save that criterion of being of an appropriate scale to its setting in the landscape. This is discussed at section 5.2 below.

5.1.7 The proposal is fundamentally unacceptable in broad policy terms due to an additional dwelling being inappropriate in the rural landscape in which it is set and by having a material detriment to the character and beauty of the countryside. This is discussed further below in relation to design and character of the area.

5.1.8 The proposal is also fundamentally unacceptable by being at an unsustainable location.

5.1.9 Work has recently been carried out by the Council in reviewing the suitability of the Five Year Housing Land Supply (5YHLS) methodology through its 5YHLS Working Group established in August 2022. The work has now assessed the current 5YHLS figure as 6.35 years. At its Statutory Annual Committee meeting on 18 May 2023 the Council subsequently confirmed that the official 5YHLS for the Maldon District now stands at 6.35 years. This means that the Council's presumption in favour of sustainable development position against Paragraph 11(d) footnote 8 has changed as the Council can now demonstrate a 5YHLS. However, whilst the policies in the plan have now regained their status due to the improved 5YHLS figure, it should be noted that this is not a ceiling to development as maintaining a minimum of a 5YHLS is reliant on a balance of delivery of housing on the ground and approval of new permissions.

5.1.10 The Housing Needs Assessment (HNA) (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 HNA is wholly compliant with the latest NPPF (2021) 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.

- 5.1.11 The proposal would replace a three-bedroom bungalow with two two-bedroom bungalows. The HNA 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 proposal would provide a net gain of two-bedroom bungalow. This would contribute towards the identified housing need and therefore holds positive weight in the planning balance albeit limited due to the net gain of a single dwelling and the latest 5YHLS figures which suggest that the required housing needs are being met by already approved housing developments.
- 5.1.12 The form of the proposed dwellings, bungalows, is noteworthy. Such provision would accord with the broad thrust of the Specialist Needs Housing Supplementary Planning Document (SPD) which refers, at paragraph 2.26, for demand for 1- and 2-bed bungalows.
- 5.1.13 In conclusion with regard to housing need and supply, the proposal would be an efficient use of land by providing an additional dwelling, the proposed dwellings would be of a type required in the district on a plot which is brownfield land. These aspects to the proposal have merit though this must be weighed against other aspects of the proposal.

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 Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”.*
- “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”.*
- 5.2.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:
- a) *Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
 - b) *Height, size, scale, form, massing and proportion;*
 - c) *Landscape setting, townscape setting and skylines;*
 - d) *Layout, orientation, and density;*
 - e) *Historic environment particularly in relation to designated and non-designated heritage assets;*

- f) *Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*
- g) *Energy and resource efficiency.*

- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (2017) (MDDG).
- 5.2.5 Policy H4 requires all development to be design-led and to seek to optimise the use of land having regard to a number of considerations including the location and setting of the site; the existing character and density of the surrounding area; accessibility to local services and facilities; and proximity to public transport.
- 5.2.6 The bungalows are considered to be of an acceptable design, being of a scale and setting within the site and of materials which would have an acceptable appearance in themselves. However, the proposal would create two dwellings where now there is one and the built forms would add to the sense of a loss of openness to this rural site.
- 5.2.7 The vehicular access to the site would be radically improved with regard to highway sight lines but in doing so would adversely impact on the appearance and character of the application site. The existing vehicular access is some 3m wide whereas the proposed vehicular access would be 6m wide. This change would modernise and also urbanise the most noticeable feature to the site. In addition, replacement hedging would be involved with the proposal although with time this could have a neutral impact on the appearance of the site.
- 5.2.8 The new vehicular access would lead onto an area of parking and manoeuvring. This is understood from text on the plan as being a size 5 turning head. This area would be visible through the gap to the frontage of the vehicular access and would be likely to be read as an area inappropriate to a rural area, even when not occupied by cars.
- 5.2.9 Whilst the bungalow form of the dwellings would enable the ground floors to be hidden by a front boundary hedge, the rooves of the bungalows would be visible to the public passing by. The occupation of the plot by two dwellings would be noticeable and this would change the character of the site, which is currently occupied by a “squatters’ cottage” built form.
- 5.2.10 The fundamental issue with regard to the impact on the character of the countryside is that the proposal would double the number of built forms at the site.

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.
- 5.3.2 There is no neighbouring dwelling in the vicinity of the site. The proposal would have no material adverse impact to the occupier of any neighbouring dwelling.
- 5.3.3 The bungalows would be arranged in such a way that they would not overlook each other and neither bungalow would have any other adverse impact to the occupiers of the other bungalow.

- 5.3.4 The bungalows would be of an adequate size and arrangement to provide a good standard of amenity to their occupiers. The amenity areas would be generally set to the sides of the bungalows and would have lengthy frontages to the main road. However, given the generous sizes of the amenity areas, 750 sq m and 490 sq m, and that hedging would be planted between the road and amenity areas, no objection is raised to the proposal with regard to private amenity space.
- 5.3.5 Both bungalows would provide adequate amenity to future occupiers and would have no material adverse impact to any occupier of another dwelling.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 Based on the site visit, it would seem that the proposed access would be a substantial improvement from the existing vehicular access which has restricted visibility. The Local Highways Authority has been consulted and a response received in writing stating that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority, subject to conditions. These conditions could be secured to any planning permission granted.
- 5.4.3 Accordingly, the proposal is considered acceptable with regard to Policy T2.

5.5 Ecology and Biodiversity

- 5.5.1 The application site does not fall within or in close proximity to nature conservation sites. However, policy N2 of the LDP states that *"All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance"*. Conservation and enhancement of the natural environment is also a requirement of the NPPF.
- 5.5.2 The application has been supported by a Preliminary Ecological Appraisal (T4 Ecology, December 2022) (PEA) relating to the likely impacts of the development on designated sites, protected and Priority species and habitats, as well as identification of proportionate mitigation. This has been reviewed by the Council's Ecological Consultant.
- 5.5.3 The Council's Ecological Consultant has confirmed in writing that there is no objection subject to securing a proportionate financial contribution towards Essex Coast Recreational Avoidance and Mitigation Strategy (RAMS) and subject to biodiversity mitigation and enhancement measures.

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

5.6.1 As a result of the location of the site and the nature of the development proposed, the proposal would have off-site impacts on nature conservation. Natural England (NE) has produced interim advice with reference to the emerging strategic approach relating to Essex Coast RAMS, to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within Maldon District Council (MDC) are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary Special Protection Area (SPA) and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'Zones of Influence' (Zol) of these sites cover the whole of the Maldon District.

5.6.2 NE anticipate that, in the context of the Local Planning Authority's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these Zol constitute a likely significant effect on the sensitive interest features of these designated sites through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), Houses in Multiple Occupation (HMOs), student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.

5.6.3 To accord with NE's requirements, a Essex Coast RAMS Habitat Regulations 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, as follows:

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

Is the development within the zone of influence (Zol) for the Essex Coast RAMS with respect to the below sites? Yes

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

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

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

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

5.6.4 Summary of Appropriate Assessment – as a competent authority, the local planning authority concludes that the project will not have a likely significant effect on the sensitive interest features of the European designated sites providing that mitigation, in the form of a financial contribution is secured. Subject to receipt of a financial contribution secured by a signed Unilateral Undertaking to confirm that the developer will contribute to Essex coast RAMS the harm to off-site nature conservation interest could be adequately mitigated.

6. ANY RELEVANT SITE HISTORY

- **12/00082/HOUSE** – Additional access point to the property from the highway (Lower Burnham Road, B1012) – Refused 30.08.2012.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Stow Maries Parish Council	No response	

7.2 Statutory Consultees and Other Organisations (*summarised*)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Authority	No objection subject to conditions regarding a visibility splay, details of vehicular access, closing of existing vehicular access, no unbound material for first 6m and an area for reception of building materials during construction	Noted

7.3 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to inclusion of conditions regarding surface water drainage foul drainage	Noted
Ecology	No objection subject to securing a proportionate financial contribution towards Essex Coast RAMS and biodiversity mitigation and enhancement measures	Noted

8. REASONS FOR REFUSAL

1. The site is located where occupiers of the dwellings would be reliant on the use of private vehicles to gain access to everyday services and facilities. The future occupiers would therefore be dependent on the use of unsustainable modes of transport as a result of the development being in an unsustainable location, contrary to Policies T1, T2, S1 and D1 of the approved Maldon District Local Development Plan and the National Planning Policy Framework.
2. The proposed development would fail to contribute to or enhance the local environment and fail to recognise the intrinsic character and beauty of the countryside by the introduction of additional built form and associated changes including an excessively wide and over engineered vehicular access

relative to the nature of the site. As such the proposal would appear discordant in its setting and as such would be contrary to Policies S8, D1 and H4 of the approved Maldon District Local Development Plan and the provisions of the National Planning Policy Framework, especially at section 15.

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, I1, N1 and N2 of the Maldon District Local Development Plan, Policy EN.3 of the Burnham-on-Crouch Neighbourhood Development Plan and the National Planning Policy Framework.

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**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
13 SEPTEMBER 2023**

Application Number	23/00592/VAR
Location	Land at The Summer House, Back Lane, Wickham Bishops
Proposal	Variation of condition 2 and 3 on approved planning permission 20/00490/FUL (Erection of 1No. dwelling (amendment to planning permission ref. RES/MAL/16/01475))
Applicant	J. Jarvis of Jarvis Developments
Agent	Mr K. Reynolds of Reynolds Developments
Target Decision Date	16.08.2023
Case Officer	Jade Elles
Parish	WICKHAM BISHOPS
Reason for Referral to the Committee / Council	Member Call in by Councillor S J N Morgan in the light of the changes sought being of a magnitude that the proposal differs from that granted planning permission at appeal

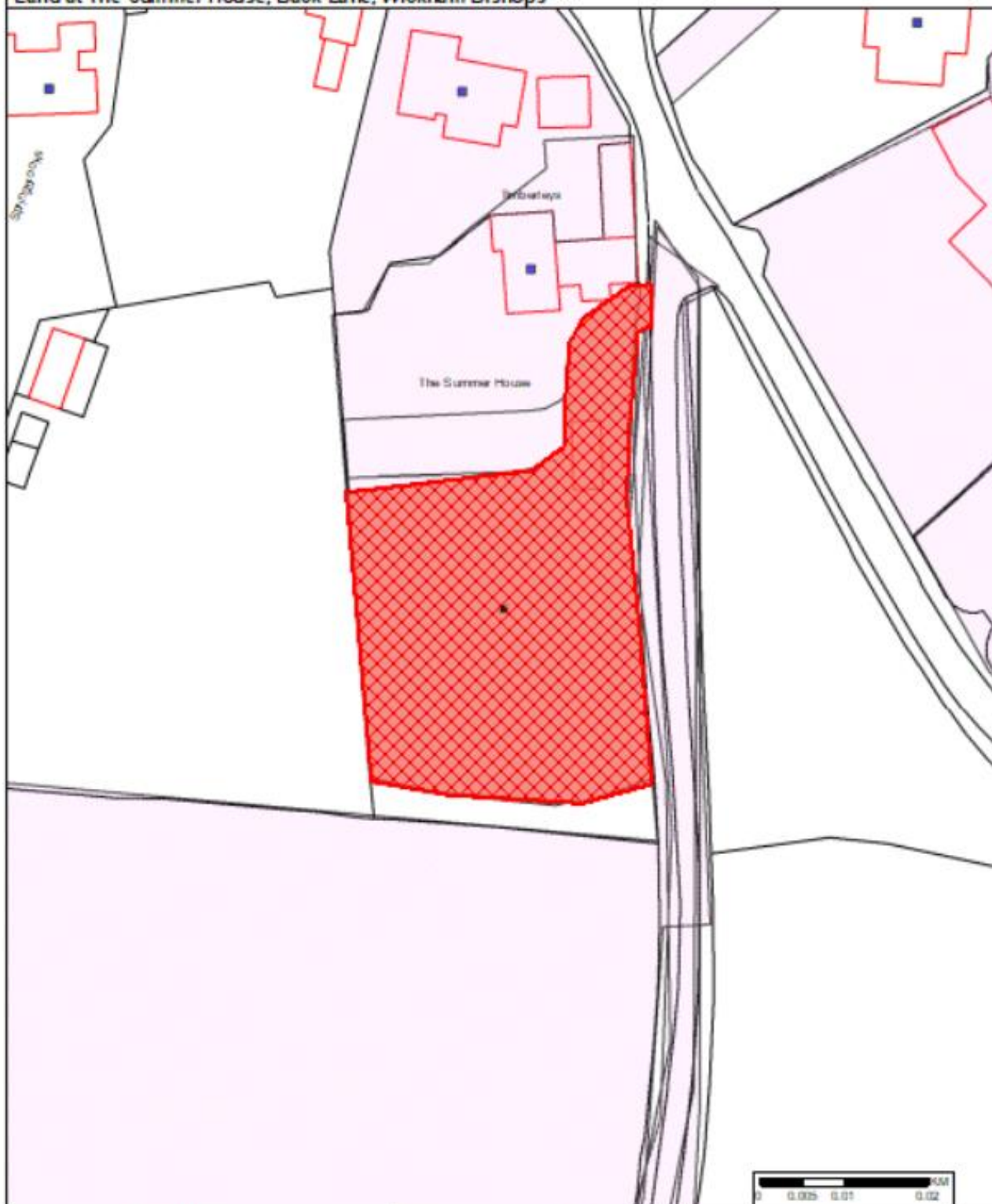
1. RECOMMENDATION


APPROVE subject to conditions as detailed in Section 8.

2. SITE MAP

Please see below.

Application reference 23/00592/VAR
Land at The Summer House, Back Lane, Wickham Bishops



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	
	Date:	29/08/2023
	MSA Number:	100018588
www.maldon.gov.uk		

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Site description

- 3.1.1 The application site sits on the western side of Back Lane. The northmost top of the site falls within the settlement boundary of Wickham Bishops, the remainder of the site lies outside the defined settlement.
- 3.1.2 The site forms part of the residential garden of 'The Summer House', which is located to the north of the site. Further to the north School Road and Grange Road are characterised by suburban development featuring predominantly detached dwellings with modest plot frontages within the built-up area of Wickham Bishops. To the east there are a group of larger detached dwellings on Back Lane, which are within the development boundary. Open countryside lies to the south.

Description of proposal

- 3.1.3 Planning permission is sought to vary condition 2 and 3 of application 20/00490/FUL. Condition 2 states:

'The development shall be carried out in accordance with the following approved plans and documents: SLP/SH/03.20, 20.02.03, DB/SUM/02, 20.02.02, 20.02.01 with dimensions, 20.02.01, DS1190P, 20.02.04 and MFA/SH01.'

Condition 3 states:

'The external surfaces of the development hereby approved shall be constructed of materials and finish as detailed below and retained as such thereafter:

Roof Tiles: Barrow: 'Brindle Mix' by Wienerberger Ltd

Brickwork: Durham Red Multi by Wienerberger Ltd

Render: White painted finish'

- 3.1.4 The amendments sought are the following:

- Amendment to the internal layout on all floors which consist of a new utility on the ground floor which would reduce the size of the garage and provide stairs up into the first floor of the garage. The first floor would be reduced by one bedroom (going from five to four bedrooms) to allow a 'dresser' room with all rooms now having en-suite bathrooms. The first floor garage would change from 'loft space' into an 'office'. A new second floor has been proposed for a plant room and two 'store' rooms resulting in a nominal increase in the height of the dwelling by 0.2 metre.
- Amendments to the fenestration to the side and rear which would consist of a window on the side elevation changing to bi-fold doors, and one set of bi-fold doors to the rear would change to a window.
- External materials are proposed to change from red clay plain tiles, Old Essex red multi-stock brickwork with cast stone cills to the main range and cream painted render with cast stone cills to the rear range and to Terreal Clay Plain Tiles in Burgundy Sandfaced, Ibstock Leicester Red Stock brickwork, Weberpral M render in Chalk and reconstituted stone head and cill styles.

- 3.1.5 These are the only amendments to the previously approved scheme.

3.2 Conclusion

- 3.2.1 Overall, the amendments to the scheme are considered to preserve the character and appearance of the site and streetscene. It is considered to not have a harmful impact on residential amenity. The proposal is therefore in accordance with policies S1, D1 and D3 of the Local Development Plan (LDP) and the guidance contained within the National Planning Policy Framework (NPPF).
- 3.2.2 Therefore, it is recommended below that planning permission is granted for the development proposed.

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
- 55-58 Planning Conditions and Obligations
- 119-123 Making effective use of land
- 126-134 Achieving well-designed places

4.2 Maldon District Local Development Plan (2017)

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

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.

- 5.1.2 The planning application 20/00490/FUL has established the principle of the development on site. The current application has been submitted under the terms of Section 73 of the Town and Country Planning Act 1990 and therefore relates solely to the conditions attached to that permission. It is therefore only necessary to consider the impacts of the proposed amendment to the conditions.

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. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. 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 to the area. Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (MDDG).
- 5.2.2 The proposed amendments relate to the change in the internal layout, changes to some fenestration and the changing of external materials on the approved works for 20/00490/FUL.
- 5.2.3 The internal layout would result in the garage being internally smaller due to the newly proposed utility on the ground floor. The first-floor internal alterations would provide an office space above the garage, a 'dresser' room, all bedrooms having an en-suite rather than there being a family bathroom and the dwelling reducing the number of bedrooms from 5- to 4-bed. There would be a newly proposed second floor which would have stairs leading to a 'plant' room and two 'store' rooms. The second floor would provide an increase in the height of the dwelling by 0.2 metres which is not a significant increase and as such would not be discernible when viewed from the streetscene. It is also noted that the proposed rooms within the roof space have no windows or roof lights proposed and therefore, they would not be able to be used as bedrooms or for other forms of living accommodation. The internal layout changes would not cause harm to the character and appearance of the dwelling or locality; therefore, no objections are raised in relation to the internal layout changed, subject to additional assessments in section 5.4 below.
- 5.2.4 The changes to fenestration would involve bi-fold doors to the side rather than a window and a window to the rear rather than bi-fold doors. The design of these windows and doors would be in keeping with the design already approved on the dwelling, therefore, no objections are raised in relation to the changes in fenestration.
- 5.2.5 The changes to the external materials would not change the appearance to the extent it would warrant a refusal. The roof tiles would be similar in colour and design to what has already been approved, the brickwork would be similar in appearance to that previously approved, the render would be similar in colour to that already approved and the cills would appear similar in appearance to what has been approved. Therefore, as the dwellinghouse would still appear similar in style, design and colouring of the materials, there are no concerns raised in relation to the change of materials.
- 5.2.6 Whilst the Parish Council has commented that the changes sought are significant and differ from the form of development allowed on appeal it is not considered, for the reasons set out in paragraphs 5.2.1 to 5.2.5 above, that these are such that a refusal of permission could reasonably be sustained in this instance.

- 5.2.7 Overall, the proposed changes would not result in detrimental harm to the character and appearance of the site, the streetscene and the surrounding area and are therefore found acceptable.

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 and overshadowing. This is supported by section C07 of the MDDG.
- 5.3.2 Due to the nature of the amendments, the proposed amendments are considered to not have a harmful impact on neighbouring residential sites.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Council's adopted Vehicle Parking Standards SPD (MDVPS) sets out the parking standards which are expressed as maximum standards. This takes into account Government guidance which encourages the reduction in the reliance on the car and promotes methods of sustainable transport.
- 5.4.3 The proposed internal layout would reduce the internal dimensions of the garage. The MDVPS require the internal dimensions for garages to be 3m by 7m. The internal dimensions for the garage would be 4.8m by 5.6m, resulting in the internal dimensions not complying with the MDVPS. However, the width is 1.8m wider and the depth is 1.4m shy of the required 7m. Furthermore, the internal space would allow a reasonably sized car to be accommodated into the space provided and there is ample of space for cars to park at the front of the dwellinghouse. Therefore, there are no objections in relation to car parking provisions.
- 5.4.4 It was stated in paragraph 5.2.3 of this report that a reduction of bedrooms has been proposed going from a 5-bed to a 4-bed property. As the number of bedrooms are being reduced it would not increase the amount of car parking provision required and therefore no concerns are raised.

6. ANY RELEVANT SITE HISTORY

- **20/00490/FUL** - Erection of 1No. dwelling (amendment to planning permission ref. RES/MAL/16/01475) - Approved 31.07.2020.
- **16/01475/RES** - Reserved matters application for the approval of appearance, landscaping and scale on outline planning application OUT/MAL/13/00118 allowed on appeal ref APP/X1545/A/13/2201061 (Demolition of two storey detached double garage with workshop and demolition of storage shed. Removal of hard surfaced tennis court including means of enclosure and erection of single dwelling house) - Approved 27.07.2018.

- **13/00118/OUT** - Demolition of two storey detached double garage with workshop and demolition of storage shed. Removal of hard surfaced tennis court including means of enclosure and erection of single dwelling house. – Appeal Allowed 10.02.2014.

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Wickham Bishops Parish Council	Objects on the grounds that it is not believed the proposals to be variations or amendments but a material change from the existing approval. The proposals bear no resemblance to those which the Planning Inspectorate allowed and constitutes over-development of the site	Noted-addressed in paragraph 5.2.3 above

7.2 **Representations received from Interested Parties** (*summarised*)

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

Objection Comment	Officer Response
An additional floor would be created	Noted and addressed in section 5.2
New plans are substantially different to what was originally approved	Noted and addressed in section 5.2

8. **PROPOSED CONDITIONS**

1. The development hereby permitted shall be carried out in accordance with the following approved plans submitted with 23/00592/VAR:

- S01, 20.02.03
- 11197-P201
- 11197-P200
- 11197-P210 Rev A
- 11197-P211 Rev B

and the approved plans submitted with 20/00490/FUL:

- DB/SUM/01 Rev A
- DB/SUM/02
- DS1190P
- 20.02.04

- MFA/SH01

REASON To ensure the development is retained in accordance with the details as approved.

2. The external surfaces of the development hereby approved shall be constructed of materials and finish as detailed in drawing number 11197-P211 Rev B.

REASON To ensure the external materials to be used in construction of the development is appropriate and in keeping with properties in the locality accordance with policy D1 of the Maldon District Local Development Plan.

3. The soft landscape works shall be carried out in complete accordance with the Soft landscaping & Planting Specification and Landscape plan reference DB/SUM/02 in approved application 20/00490/FUL, 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 that 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.

REASON In the interest of local visual amenity in accordance with policies D1 and S8 of the Maldon District Local Development Plan.

4. The Surface and Foul Water Drainage schemes shall be carried out in accordance with submitted details in approved application 20/00490/FUL and completed before the building is occupied.

REASON To ensure the appropriate drainage is provided at the site, in accordance with policy D5 of the Maldon District Local Development Plan.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no garages, extensions or separate buildings (other than ancillary outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site.

REASON To protect the character and appearance of the area in accordance with policy D1 of the Local Development Plan.

6. The development hereby approved shall be carried out in complete accordance with the Arboricultural Report and Arboricultural Implications Assessment and Tree protection plan reference DB/SUM/01 Rev A in approved application 20/00490/FUL.

REASON To ensure the protection, retention and replacement of trees and vegetation in the interest of the character and appearance of the area in accordance with policy D1 of the Local Development Plan.

7. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no first floor windows or other form of opening shall be constructed on the northern flank wall of the dwellinghouse hereby permitted without planning permission having been obtained from the Local Planning Authority.

REASON To protect the amenity of the neighbouring residential properties to the north of the site in accordance with policy D1 of the Maldon District Local Development Plan.

8. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no second floor windows or other form of opening shall be constructed on the roof slope of the dwellinghouse or garage hereby permitted without planning permission having been obtained from the Local Planning Authority.

REASON To protect the amenity of the neighbouring residential properties to the north of the site in accordance with policy D1 of the Maldon District Local Development Plan.

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