

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

DIRECTOR OF STRATEGY AND
RESOURCES
Paul Dodson

02 April 2024

Dear Councillor

You are summoned to attend the meeting of the;

SOUTH EASTERN AREA PLANNING COMMITTEE

on **WEDNESDAY 10 APRIL 2024** at **7.30 pm**

in the **Burnham Town Council Offices, Chapel Road, Burnham-on-Crouch, Essex, CM0 8JA.**

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

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

A copy of the agenda is attached.

Yours faithfully



Director of Strategy and Resources

COMMITTEE MEMBERSHIP:

CHAIRPERSON	Councillor V J Bell
VICE-CHAIRPERSON	Councillor A Fittock
COUNCILLORS	M G Bassenger D O Bown A S Fluker L J Haywood W J Laybourn M G Neall R G Pratt U C G Siddall-Norman W Stamp, CC





AGENDA
SOUTH EASTERN AREA PLANNING COMMITTEE

WEDNESDAY 10 APRIL 2024

1. **Chairperson's notices**

2. **Apologies for Absence**

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

To confirm the Minutes of the meeting of the Committee held on 14 February 2024, (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. **23/00925/FUL - Land Adjacent 39 Green Lane, Burnham-on-Crouch** (Pages 11 - 24)

To consider the report of the Assistant Director: Planning and Implementation, (copy enclosed, Members' Update to be circulated)*.

6. **23/01212/FULM - Land South of 97 South Street, Tillingham** (Pages 25 - 64)

To consider the report of the Assistant Director: Planning and Implementation, (copy enclosed, Members' Update to be circulated)*.

7. **24/00105/FUL - Town Steps, The Quay, Burnham-on-Crouch, Essex** (Pages 65 - 78)

To consider the report of the Assistant Director: Planning and Implementation, (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

In the event of a fire, Officers will notify those present. Please use the fire exits marked with the green running man. The fire assembly point is Barclays Bank car park. Please gather there and await further instruction.

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
SOUTH EASTERN AREA PLANNING COMMITTEE
14 FEBRUARY 2024**

PRESENT

Chairperson	Councillor V J Bell
Vice-Chairperson	Councillor A Fittock
Councillors	D O Bown, A S Fluker, L J Haywood, W J Laybourn, M G Neall and U C G Siddall-Norman

472. CHAIRPERSON'S NOTICES

The Chairperson welcomed everyone to the meeting and went through some general housekeeping arrangements for the meeting.

The Chairperson advised of the recent passing of Berna Casey, one of the Committee Clerks. She referred to her as being much loved by everyone at Maldon District Council, Officers and Council Members alike and would be very sorely missed.

473. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors M G Bassenger, R G Pratt and W Stamp CC.

474. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 15 November 2023 be approved and confirmed.

5. 23/00796/FUL - LAND NORTH WEST OF RIVERSLEIGH, NIPSELLS CHASE, MAYLAND

At this point in the meeting, the Chairperson brought to the attention of the Committee that after great consideration and upon receiving advice from Officers, she would be proposing that Agenda Item 5 23/00796/FUL - Land North West of Riversleigh, Nipsells Chase, Mayland, be deferred to the District Planning Committee. Following a brief discussion this was duly seconded.

In accordance with Procedure Rule No. 13 (3) Councillor V J Bell requested a recorded vote and this was duly seconded. The Chairperson then moved the vote to defer Agenda Item 5 to the District Planning Committee and the voting was as follows:

For the recommendation:

Councillors V J Bell, T Fittock and U G C Siddall-Norman

Against the recommendation:

Councillors D O Bown, L J Haywood, A S Fluker, M G Neall, W J Laybourn,

Abstention:

None

The Chairperson declared that the proposal had not been agreed and that the application would be heard at this Committee.

475. DISCLOSURE OF INTEREST

Councillor A S Fluker stated that all Members present knew one of the applicants in Agenda Items 5. 23/00796/FUL - Land North West of Riversleigh, Nipsells Chase, Mayland and 6. 23/01056/VAR - Paton Place, Nipsells Chase, Mayland as they were a Member of Maldon District Council.

476. 23/00796/FUL - LAND NORTH WEST OF RIVERSLEIGH, NIPSELLS CHASE, MAYLAND

Application Number	23/00796/FUL
Location	Land North West of Riversleigh, Nipsells Chase, Mayland
Proposal	Retain structure for mixed use. Agricultural storage, office, reception/rec area, cake and jam making studio.
Applicant	Mr & Mrs Kenny Paton
Agent	None
Target Decision Date	06.10.2023
Case Officer	Fiona Bradley
Parish	MAYLAND
Reason for Referral to the Committee / Council	Councillor / Member of Staff

It was noted from the Members' Update, that the applicant had submitted a document containing photographs with headings relating to cake making and making apple juice. Whilst the photographs were noted, Officers considered that they did not provide any justification of the need for the building for agricultural storage or the other uses proposed.

Following the Officer's presentation, the Applicant Mr Paton addressed the Committee. The Chairperson then moved the Officer's recommendation of refusal as set out in the report and this was duly seconded.

During the debate that ensued and in response to questions raised by Members, Officers provided the following responses:

- The Planning history of this site was a material consideration. The initial application for the apple storage barn was approved by Members because it was considered appropriate, being an agricultural use in the countryside. Subsequently there was an application last year for a change of use to a residential dwelling. In that application, the applicant made it clear that the building wasn't fit for purpose as an apple storage / processing due to the rooms being too small and the roof being too low meaning access for a forklift was unachievable. At that time, the applicant advised that they would use another building on the site for apple storage and processing.

- No information had been submitted with this application that justified the structure as being necessary for being located in the countryside.

There being no further discussion the Chairperson put the Officer's recommendation to refuse to the Committee and upon a vote being taken this was not agreed. In light of this the Chairperson then sought an alternative proposal from the Committee.

Councillor A S Fluker proposed that the application be approved, contrary to the Officer's recommendation, and this was duly seconded by Councillor W J Laybourne. Upon a vote being taken there was an equality of votes and the Chairperson used her casting vote to vote against the approval of the application. The proposal in the name of Councillor Fluker was therefore not agreed.

The Chairperson referred back to the Officer's recommendation of refusal as set out in the report and moved that this be agreed. This proposal was duly seconded. Upon a vote being taken there was an equality of votes and the Chairperson used her casting vote to vote for the refusal of the application.

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

1. The site is outside of a defined settlement boundary and is in open countryside. The proposed development would result in an unjustified intrusion in the countryside which, by virtue of the scale, design and siting of the building within the open countryside, would cause substantial harm to the intrinsic rural character and beauty of the area. The proposal is therefore unacceptable and contrary to policies S1, S8, E4 and D1 of the approved Maldon District Local Development Plan (2017) and the National Planning Policy Framework.
2. No information has been submitted with the application regarding the proposed uses of the building, therefore it is not possible to assess the level of activity at the site and within the building and the potential impacts on the amenity of residential neighbours. Accordingly, in the absence of any information, the proposal is contrary to Policy D1 of the approved Maldon District Local Development Plan (2017) and the National Planning Policy Framework.

477. 23/01056/VAR - PATON PLACE, NIPSELLS CHASE, MAYLAND

Application Number	23/01056/VAR
Location	Paton Place, Nipsells Chase, Mayland
Proposal	Variation of conditions 1 & 12 of approved application 23/00749/FUL (Amendment of condition 2 of 21/01240/VAR. Alterations to scale of the dwelling, the fenestration, design and materials).
Applicant	Mr & Mrs Kenny Paton
Agent	N/A
Target Decision Date	12.01.2024
Case Officer	Fiona Bradley
Parish	MAYLAND
Reason for Referral to the Committee / Council	Councillor / Member of Staff

The Chairperson made the Committee aware that this item had been **WITHDRAWN** by the applicants prior to the meeting.

478. 23/01218/HOUSE - 8 GLENDALE ROAD, BURNHAM-ON-CROUCH, CM0 8LY

Application Number	23/01218/HOUSE
Location	8 Glendale Road, Burnham-on-Crouch, CM0 8LY
Proposal	Single storey rear extension to be used as annexe accommodation including alterations to existing garden room to facilitate the development.
Applicant	Mrs J Hurley
Agent	Mr Chris Cumbers
Target Decision Date	21.02.2024
Case Officer	Hayley Sadler
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Member Call In – Councillor W Stamp has called in the application for the following policy reasons: Local Development Plan, policy D1 (Design Quality and Built Environment) & policy H4 (Effective Use of Land)

Following the Officer's presentation, Mr Cumbers, the Agent addressed the Committee.

In response to a question from the Chairperson, Officers confirmed that the size of the extension had been reduced, however, the size of the garden room had been increased, so the level of built form would still be of a similar size as the previous application.

The Chairperson moved the Officer's recommendation of refusal as set out in the report and this was duly seconded.

A short debate ensued during which Members discussed the design, impact to the street scene and the size of the proposed annexe.

Councillor A S Fluker proposed that the application be approved, contrary to the Officer's recommendation, due to the development being compliant with policy D1 of the Local Development Plan. This was seconded by Councillor U C G Siddall-Norman.

There being no further discussion the Chairperson then put the Officers' recommendation of refusal to the Committee and upon a vote being taken this was not agreed.

The Chairperson then put the proposal in the name of Councillor Fluker to approve the application contrary to the Officer's recommendation to the Committee and upon a vote being taken this was agreed.

RESOLVED that the application be **APPROVED** with conditions delegated to Officers in consultation with the Chairperson.

479. ANY OTHER ITEMS OF BUSINESS THAT THE CHAIRPERSON OF THE COMMITTEE DECIDES ARE URGENT

Councillor A S Fluker wanted to pay tribute to Steve Wright who passed away recently and wanted his family and friends to know that the Committee's thoughts were with them during this difficult time.

There being no other items of business the Chairperson closed the meeting at 8.34 pm.

V J BELL
CHAIRPERSON



**REPORT of
ASSISTANT DIRECTOR: PLANNING AND IMPLEMENTATION**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
10 APRIL 2024**

Application Number	23/00925/FUL
Location	Land Adjacent 39 Green Lane, Burnham-on-Crouch
Proposal	Erection of a four-bedroom detached chalet style dwelling.
Applicant	Mr S Latif
Agent	Mr David DeVries
Target Decision Date	17.04.2024
Case Officer	Hayley Sadler
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Departure from the local plan

1. RECOMMENDATION

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


2. SITE MAP

Please see below.

Land Adjacent 39 Green Lane - Burnham On Crouch

23/00925/FUL



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	SE Area Planning Committee
	Date:	20/12/2023
www.maldon.gov.uk	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the southern side of Green Lane outside the settlement boundary of Burnham-on-Crouch. The proposed dwelling subject to this application was previously approved under reference 16/01481/FUL, however, the works were never implemented. The application site is adjacent to No.39 Green Lane where an application for a detached chalet dwelling was allowed on appeal under reference 15/01046/FUL. To the south of the site there is approval for six residential dwellings allowed on appeal under reference 17/01123/OUT, subsequently varied under reference 21/00356/VAR and development has commenced.
- 3.1.2 The current application seeks planning permission for an identical dwelling to that which was previously approved, being is a four bedroom, detached chalet style dwelling. As previously approved the dwelling would measure 14 metres in width and 10 metres in depth and 7.6 metres in height under a cross hipped roof with a clipped gable. The materials to be used for the walls, roof, windows and doors are indicated as matching those used in the construction of the adjacent property No.39 Green Lane.

3.2 Conclusion

- 3.2.1 Although the proposed new dwelling would represent a limited encroachment into the rural character and appearance of the locality, the site is not isolated nor remote from other properties and where the immediate locality is undergoing change which has been found acceptable by Inspectors in their appeal decisions. Accordingly, the appeal decision on the application site is clearly a material consideration as is the appeal decision for the land to the south which is now subject to development. In the light of the planning history the proposal is not considered to result in such a level of harm as to warrant a reason for refusal.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2023 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-14 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 55-58 Planning conditions and obligations
- 85-87 Building a strong, competitive economy
- 96-101 Promoting healthy and safe communities
- 108-113 Promoting sustainable transport
- 123-127 Making effective use of land
- 128-130 Achieving appropriate densities
- 131-141 Achieving well-designed places

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- I2 Infrastructure and Services

4.3 Relevant Planning Guidance / Documents:

- Burnham-on-Crouch Neighbourhood Development Plan
- National Planning Policy Framework (NPPF)
- Maldon District Design Guide (MDDG) (2017)
- Maldon District Vehicle Parking Standards Supplementary Planning Document (SPD)

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 (2021) require that planning decisions are to be made in accordance with the Development Plan (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 use residential properties but does allow at (m) of S8, development which complies with other policies of the LDP. As such, although there is conflict with Policy S8 in that the site is located outside of the settlement boundary, in the opinion of the Local Planning Authority (LPA), this is balanced against other material considerations which are discussed further in the report.
- 5.1.4 As per Paragraph 77 of the NPPF, the Council, as the LPA for the Maldon District, is expected to “identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five 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 five 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 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 meeting on 18 May 2023 the Council subsequently confirmed that the official 5YHLS for the District of Maldon now stands at 6.35 years, updating the previous official position for 2021 / 22 of 3.66 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. 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 LDP), 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. As stated, the LDP through Policy S1 re-iterates the requirements of the NPPF Policy S1 allows for new development within the defined development boundaries. Paragraph 83 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 Accessibility is a key component of the environmental dimension of sustainable development. Policy T1 aims to secure the provision of sustainable transport within the District. Policy T2 aims to create and maintain an accessible environment. Policy D2 of the same Plan seeks to reduce the need to travel, particularly by private vehicle, by encouraging sustainable modes of transport. Paragraph 109 of the NPPF acknowledges that "development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes". This is supported by the update of the Government's Policy Paper, 'Strategic road network and the delivery of sustainable development' (Updated 23 December 2022), which is to be read in conjunction with the NPPF. Paragraph 12 of this paper asserts that "new development should be facilitating a reduction in the need to travel by private car and focused on locations that are or can be made sustainable".
- 5.1.8 Planning permission was granted under reference 16/01481/FUL for the 'Erection of a four bedroom detached chalet style dwelling'. The works were never implemented and therefore the time bound implementation condition has lapsed.
- 5.1.9 The proposed new dwelling would be located outside of the settlement boundary of Burnham-on-Crouch, as defined by the approved local plan and is, therefore, in conflict with the LDP adopted policy. The town of Burnham-on-Crouch is defined as a main settlement as defined within policy S8 of the approved LDP. Whilst the South Eastern Area Planning Committee concluded that the previously approved scheme

was not in the most sustainable location, on balance, weight was given to the appeal decision at the adjoining site, and the other applications approved by the Committee in the immediate vicinity. Since the previous application the immediate locality has evolved with a number of previously approved residential dwellings now being completed, including the 180 housing development to the south east. Burnham-on-Crouch has a high number of facilities within the main High Street. There are two bus stops located just outside either end of Green Lane, Eves Corner to the east which is a 10 minute walk / 2 minute cycle ride and Dhan Shiri to the west which is a 9 minute walk / 3 minute cycle ride. Although the property is located outside of the defined settlement boundary it is considered that due to its close proximity, future occupiers of the proposed dwelling would not necessarily be reliant on private vehicles to meet regular day to day needs. Furthermore, the Inspector for the appeal for the construction of No.39 stated:

'While the appeal site and this part of Green Lane are outside of the settlement boundary, a range of facilities and services within Burnham-on-Crouch are nearby. At my site visit, I noted that Green Lane is a narrow road without pavements and appears to be used as a through route for traffic avoiding the B1010 and/or B1021. However, it was also lightly trafficked with no steep gradients and did not seem prohibitive to pedestrians or cyclists. The bus stop on Maldon Road is also within walking distance. Therefore, alternatives to the private motor car are possible. There would be a need to travel to access facilities and services, but the distances and negative effects would be limited. Furthermore, given the proximity of existing and approved housing on Green Lane, and the likelihood of 180 houses being built between Green Lane and Maldon Road, the proposed development would not be isolated or remote from facilities.'

Concluding on this main issue, while the proposed development would be outside of the settlement boundary and contrary to Policy S2 of the RLP, the site specific circumstances indicate that it would be sustainably located in terms of access to facilities. Furthermore, it would accord with Policy CC6 of the RLP in terms of an appropriate location in the landscape. It would also meet the aims of paragraph 55 of the NPPF as it would avoid being an isolated home in the countryside.'

- 5.1.10 As such, there is no objection to the principle of the site accommodating a residential unit, subject to the scheme causing no demonstrable harm to the character and appearance of the locality, to the neighbouring amenity, and ensuring that parking and amenity space provision is met.
- 5.1.11 Other considerations for the proposal are discussed below, including the impact on the character of the area and residential amenity and the provision of parking and private amenity space at the site.

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. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Policies D1 and H4 of the LDP and the MDDG (2017) are relevant in this respect.
- 5.2.2 The application site would be visible from the streetscene of Green Lane and is located within the middle of a newly formed residential street that has evolved over the years with a number of two storey detached dwellings being erected to the north

east of the application site and the construction of a large housing estate to the south east of the application site with pedestrian and cycle access off of Green Lane. Although the proposed development would be located on a parcel of land beyond the defined settlement boundary of Burnham-on-Crouch, it is noted that three previous applications have been approved within the wider site, a single storey detached bungalow at the site (planning reference 15/01046/FUL), a single storey detached bungalow (planning reference 16/01481/FUL) and six detached dwellings (planning reference 17/01123/OUT) which was later varied under reference 21/00356/VAR. Both applications 15/01046/FUL and 17/01123/OUT were subject to an appeal following a refusal by the Council and both appeals were allowed.

5.2.3 Application 15/01046/FUL was refused by the LPA for the following reasons:

- 1 *The proposed development would appear visually intrusive within the rural countryside in this location, which is recognised for its landscape value in the adopted Local Plan. The proposed development would result in the urbanisation of the site and therefore have a detrimental impact upon the character and appearance of the area contrary to policies S2, CC6 and BE1 of the adopted Maldon District Replacement Local Plan, guidance contained within the National Planning Policy Framework and policies S1, S8 and D1 of the Maldon District Pre-Submission Local Development Plan.*
- 2 *The proposed development would result in an isolated residential development that would not respect the existing pattern of development and is comparatively remote from community support facilities. Furthermore, the development would have an urbanising effect on the rural character of the area and would result in an unwelcome visual intrusion and encroachment into the open and undeveloped countryside, to the detriment of the character and appearance of the area contrary to policies CC6 and BE1 of the adopted Maldon District Replacement Local Plan, S1, S8, D1 and H4 of the Maldon District Pre-Submission Local Development Plan. and core planning principles and guidance contained in the National Planning Policy Framework.*

The Inspector concluded that *'The proposed development would not harm the character and appearance of the surrounding area and would be sustainably located in terms of access to facilities. For these reasons, and have regard to all other matters raised, I therefore conclude that the appeal should be allowed.'*

In relation to the harm on the character and appearance of that proposed dwelling the Inspector considered the evolving development within Green Lane and the large housing development to the south east of the site and stated:

'It is inevitable that the proposed development would result in some change to the countryside through the introduction of a new dwelling. However, the site is not isolated or remote from other properties and is situated within an area that is undergoing considerable change. The existing detached property at High House lies a short distance to the north-east of the appeal site on the opposite side of Green Lane with two detached dwellings under construction to its east. Both the appellant and Council have also highlighted a number of other sites along Green Lane that have permission for small scale residential development. While I appreciate that no site is identical, it demonstrates a less restrictive approach to new dwellings in this area and an increase in residential character along Green Lane.

Immediately to the east of the appeal site between Green Lane and Maldon Road is the strategic site S2(j), allocated in the LDP for 180 houses. A planning application based on this allocation has recently been approved subject to a Section 106

agreement. Although the new houses would be set back from the appeal site and Green Lane by a reasonable distance, they would face in their direction and would be visible with little apparent screening. The approved scheme would represent a considerable increase in residential development in the vicinity of Green Lane.

The proposed development would occupy a small part of the overall site and be positioned next to the existing access to minimise the need for new hardstanding. The long gap in built development along the south side of Green Lane would be eroded to a very small extent, but the vast majority of it would remain. Furthermore, the likelihood of 180 houses to the east would see a considerable increase in built development towards the gap.

In the context of existing and approved residential development either side of Green Lane, the new dwelling would not be isolated or overly prominent. It would be screened to some extent by the existing boundary vegetation, particularly the tree belt to the west, which would also reduce the effect of any lighting or other residential paraphernalia. The dwelling would be of a similar scale and appearance to other detached dwellings along Green Lane and would front onto the road rather than constitute backland development.

As a consequence of both the site circumstances and the proposed design, the proposed development would respect the existing pattern of intermittent properties along Green Lane without a detrimental urbanising effect. Furthermore, there would be little visual intrusion or encroachment into the countryside given the limited scale of development.

Both main parties have brought to my attention a number of planning decisions, including those determined at appeal, for similar proposed development in the District. However, it is evident that none of these decisions are directly comparable. I have determined this appeal on its own merits.

Concluding on this main issue, the effect of the proposed development on the character and appearance of the surrounding area would not be harmful.'

5.2.4 In terms of design, this would be identical to that of No.39 adjacent (planning reference 15/01046/FUL) and also identical to the previously approved application that was never implemented (planning reference 16/01481/FUL). As no issue was raised with the design of No.39 and that scheme was allowed at appeal, as has been discussed above, it would be unreasonable for there to be concerns with the current application.

5.2.5 Application 17/01123/OUT was refused by the LPA for the following reasons:

- 1 *The proposed development on land outside the settlement boundary of Burnham-on-Crouch would represent the sprawl of development into the countryside and cause harm to the character and intrinsic beauty of the countryside. The proposal is therefore contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan 2017, policies HO.1 and HO.8 of the Burnham-on-Crouch Neighbourhood Development Plan 2017 and the guidance contained within the National Planning Policy Framework.*
- 2 *The proposed development, by virtue of the proposed new access road linking the proposed dwellings to Green Lane, would have a detrimental and harmful visual impact on the character and intrinsic beauty of the countryside. The proposal is therefore unacceptable and contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan 2017, policies HO.1 and HO.8 of*

the Burnham-on-Crouch Neighbourhood Development Plan 2017 and the guidance contained within the National Planning Policy Framework.

In relation to the harm on the character and appearance of those proposed dwellings the Inspector considered the evolving development within Green Lane and the large housing development to the south east of the site and stated:

'The area is undergoing considerable change. I note the land to the east of the appeal site is subject to a large scale development constituting one of those strategic development sites at Burnham. There is nothing before me to suggest that this development is unlikely to proceed noting that it is one of the Council's strategic housing allocation sites. If it does, the countryside to the east of the appeal site will become substantially more urban in character. I also saw that there are other backland developments in the area, such as those developments at Pinnars Close, The Hawthorns and Corinthia Mews.

It was within this evolving urbanising context that the Inspector found that the previous appealed scheme would not appear contrived, isolated or overly prominent when viewed from Green Lane or elsewhere. I note that there have been a number of recent planning permissions for detached dwellings along Green Lane near to the proposed site access. In addition to the dwelling recently erected to the west of the proposed vehicular access, there is also permission in place to erect a dwelling immediately to the east of the proposed access. Whether or not any of these developments have come forward at a time when they would have assisted in meeting the District's housing need, it is clear to me that this area, including that of Green Lane, is becoming more urban in character.

I accept that there are differences in terms of the proposed accesses and the indicative dwellings and road layout to that of the previous scheme. The previous permission remains extant and I give significant weight to it as a fallback development. Overall, the proposal would represent a development of a similar form to that previously allowed at appeal with regard to the land where the dwellings would be located. The illustrative plan indicates that a spacious and low density layout could be achieved with landscaping between and around dwellings and that the established existing group of trees can be retained. Whilst this proposal shows two dwellings further east in that site than that of the previously illustrative scheme, other areas at the east of the appeal site would remain undeveloped. However, it must be noted that the layout was and is a reserved matter of both the previous permission and the current proposal.

I find that the proposed development would not be out of context taking into account the large residential development that would come forward between Maldon Road and Green Lane to the east of the appeal site. The scheme would also retain existing landscaping and allow for further soft landscaping. The development would integrate with the existing landscaping within the surrounding area. The proposal would, therefore, not be substantially out of keeping with the character of the area or cause significant visual harm to its appearance. I also note the proposed development would have a similar set-back from Green Lane to that of the large development scheme at the east. The landscaping would, to some extent, conceal the development in views from the wider area, including Green Lane.

Turning to the proposed vehicular access, the recently erected dwelling of 39 Green Lane and the permitted dwelling will have a significant urbanising impact upon the character of this part of Green Lane. There is nothing before me that would indicate that the dwelling to the east would be unlikely to proceed. I saw that there is already an access onto Green Lane. I do not consider the new access would appear out of

context between dwellings. Notwithstanding this, part of the proposed vehicular access would be more visually noticeable where it would not be flanked by built development or visually softened by landscaping. However, that stretch of highway is of limited length and would be set back in views from Green Lane. Due to this area becoming more urban in character I do not consider the access road would appear substantially out of context.

A footway between 60 and 60A Maldon Road could be achieved within the available space. This would not be an appreciable visual change to the Maldon Road streetscene. I, therefore, consider this to be an acceptable and beneficial part of the proposed development.

For these reasons, I conclude that the proposed development would preserve the character and appearance of the area.'

- 5.2.6 In light of the above assessment and taking into the account that the principle of the development was previously deemed acceptable on the approved scheme from 2017 and that the immediate site area and surrounding area including the outcome of the appeals relating to that site, the proposal by reason of its siting, design, scale and bulk would be acceptable. On balance, the impact of the development on the character and appearance of the locality, when considering the approved development in the immediate locality is not considered to be so demonstrable to the character and appearance of the locality to warrant a reason for refusal.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of Policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.3.2 There are no other neighbouring properties adjoining the application site outside of those that have already been built, are under construction or awaiting construction with the wider site itself.
- 5.3.3 The application site subject to this application sits approximately 16 metres from No.39 Green Lane to the west, the elevation facing this neighbouring property would have one window and door at ground floor level and one rooflight proposed in the roof slope, due to the height of the rooflight proposed it would not result in an unneighbourly form of development that would result in overlooking for this neighbouring property.
- 5.3.4 The application site subject to this application sits approximately 44 metres from the closet dwelling which was allowed on appeal under reference 17/0112/OUT and would be located to the opposite side to the shared private driveway, whilst it is noted that three rooflights are proposed within the roof slope facing out onto the proposed new dwellings, due to the separation distance it is not considered that the development would result in overlooking to these dwellings, resulting in an unneighbourly form of development.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the

Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

- 5.4.2 The existing access to the site formed part of planning approval 15/01046/FUL. Essex County Council (ECC) Highways has raised no objection to the proposal subject to conditions relating to the reception and storage of building materials and the provision of cycle parking on the site, together with informative, which can be added if the application was approved.
- 5.4.3 The dwelling proposed would have four bedrooms and as per the Council's vehicle parking standards would require three car parking spaces, the block plan submitted shows that there would be sufficient space for at least three vehicles. Therefore, no objection is raised in relation to traffic and transport issues.

5.5 Private Amenity Space and Landscaping

- 5.5.1 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 SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms and 50m² for smaller dwellings.
- 5.5.2 The development proposed would provide well in excess of 100m² of private amenity space. Therefore, the proposal is in compliance with Policy D1 of the LDP.

5.6 Ecology (including the impact of development within the Zone of Influence (Zoi) for the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS))

- 5.6.1 Paragraph 180 of the NPPF states that 'planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity.'
- 5.6.2 Strategic LDP Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.6.3 Policy N2 of the LDP which states that '*All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance.*'
- 5.6.4 The application site falls within the Zoi for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure. As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England (NE) does not provide bespoke advice. However, NE's general advice is that a Habitats Regulation Assessment (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.

- 5.6.5 As a competent authority, the LPA concludes that the project will, without mitigation, have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account NE's advice, it is considered that mitigation, in the form of a financial contribution of £156.76 per dwelling is necessary. The Council is now in receipt of a signed Unilateral Undertaking (UU) and the appropriate mitigation would therefore be secured, in compliance with policies S1, D1, N1 and N2 of the LDP and Government advice contained in the NPPF.

6. ANY RELEVANT SITE HISTORY

- **14/01216/FUL** - Erection of a 5 bedroom dwelling and a detached double garage, Refused – 2 March 2015
- **14/01200/OUT** - Outline planning for proposed demolition of No. 58 Maldon Road and the erection of six new dwellings of 232-350 sq meters on land at the rear of 60a Maldon Road and change of land use to C3, Refused – 12 February 2015
- **15/01046/FUL** - Application for the erection of a four bedroom detached dwelling, revised application following refusal FUL/MAL/14/01216, Refused and allowed on appeal – 30 June 2016
- **16/00120/OUT** - Outline planning permission for proposed demolition of No.58 Maldon Road and the erection of 6 No. residential units. with ancillary works including new vehicular and pedestrian access off Maldon Road and Estate Road (Resubmission), Refused and allowed on appeal – 16 February 2017
- **16/01246/OUT** - Proposed demolition of No.58 Maldon Road and the erection of 12 residential units of 80-240Sqm with ancillary works including new vehicular and pedestrian access off Maldon Road on land forming part of the rear garden to No.60a Maldon Road, Refused – 17 January 2017
- **16/01481/FUL** – Erection of a four bedroom detached chalet style dwelling, Approved – 14 March 2017
- **17/01123/OUT** - Proposed erection of 6 residential dwellings and ancillary works with shared surface access of Green Lane and pedestrian/ cycle link to Maldon Road., Refused and allowed on appeal – 13 June 2018
- **19/00702/RES** - Reserved matters application for the approval of access, appearance, landscaping, layout and scale on approved planning application OUT/MAL/17/1123 allowed on appeal APP/X1545/W/18/3195853 (Proposed erection of 6 residential dwellings and ancillary works with shared surface access of Green Lane and pedestrian/ cycle link to Maldon Road), Approved – 28 February 2020
- **21/00356/VAR** - Variation of condition 2 (approved drawings) of approval reference 19/00702/RES (Reserved matters application for the approval of access, appearance, landscaping, layout and scale on approved planning application OUT/MAL/17/1123 allowed on appeal APP/X1545/W/18/3195853 (Proposed erection of 6 residential dwellings and ancillary works with shared surface access of Green Lane and pedestrian/ cycle link to Maldon Road)) Amendment sought: Amendment to design of dwelling on Plot 2., Approved – 18 January 2022

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Burnham-on-Crouch Town Council	Recommend the granting of planning permission	Noted

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Highways	No objection – subject to recommended conditions and informative	Noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No comment	-

7.4 Representations received from Interested Parties

7.4.1 No letters of representation have been received.

8. PROPOSED CONDITIONS

Conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: LP1, PL.1, X01 Rev A, X02 Rev B, 05 Rev A.
REASON To ensure that the development is carried out in accordance with the details as approved.
- 3 No works above ground level shall take place until written details of the proposed materials to be used in the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved.
REASON In the interest of the character and appearance of the area in accordance with Policy D1 of the Maldon District Local Development Plan (2017) and the guidance contained within the National Planning Policy Framework (2023).
- 4 No development above slab level shall take place until details of all hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - a) means of boundary enclosure
 - b) hard surfacing materials

- c) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate and
- d) implementation timetables.

All hard and soft landscape works shall be carried out in accordance with the approved details. Any plant material removed, dying or becoming seriously damaged or diseased within 5 years of planting shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.

REASON In the interests of the character and appearance of the rural area and highway safety, in accordance with Policies T2, D1, E1 and S8 of the Maldon District Local Development Plan (2017) and the guidance contained within the National Planning Policy Framework (2023).

- 5 Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

REASON To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy T2.

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

REASON To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy T2.

INFORMATIVES

- 1 There shall be no discharge of surface water from the development onto the Highway.
- 2 All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org



**REPORT of
ASSISTANT DIRECTOR: PLANNING AND IMPLEMENTATION**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
10 APRIL 2024**

Application Number	23/01212/FULM
Location	Land South of 97 South Street, Tillingham
Proposal	Residential development for 11 dwellings, formation of new vehicular and pedestrian access, associated open space, parking and landscaping
Applicant	Mr B Levy – Countryside Style Ltd
Agent	Mr Chris Wragg – Arcady Architects Ltd
Target Decision Date	03.05.2024
Case Officer	Devan Hearnah
Parish	TILLINGHAM
Reason for Referral to the Committee / Council	Departure from the local plan Major Application Member Call In by Councillors A S Fluker and M G Neall – Policies D1, D2, D3, E4 and S8

1. RECOMMENDATION


APPROVE subject to the Lead Local Flood Authority raising no objections in terms of flood risk and drainage, and the applicant entering into a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the planning obligations and subject to conditions as detailed in Section 8.

2. SITE MAP

Please see below.

23/01212/FULM
SEAC



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Not Set
	Date:	27/03/2024
	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 is located on the eastern side of South Street, outside of, but adjacent to the settlement boundary of Tillingham. The site also lies approximately 115m to the south of the Tillingham Conservation Area.
- 3.1.2 The site is rectangular in shape, measuring approximately 0.6 hectares in area. It is part of an agricultural field which extends to the east beyond the application site. To the south of the site is Grange Road and predominantly the open countryside. To the north and west of the application site is residential development that makes up part of the settlement of Tillingham. Development to the immediate north features ribbon development fronting South Street.

Proposal

- 3.1.3 Planning permission is sought for the erection of 11 dwellings, the formation of new vehicular and pedestrian accesses and landscaping.
- 3.1.4 The proposed dwellings would be arranged in a linear fashion facing west onto South Street, with the exception of Plot 1 which would front south. The proposal would consist of a terrace of 4 dwellings, 3 detached dwellings, a semi-detached pair of two storey properties and a pair of semi-detached bungalows, served by one access and internal access road. The table below sets out the details of each property:

Plot(s)	Tenure	House Type	Bedrooms	Width	Depth	Eaves Height	Ridge Height	Garage / parking	Design Features
1	Affordable	2 storey end of terrace	3 bed/5 person	5.5m	9.8m	5.2m	9.4m	2 spaces to the front of the property.	Front to back gable roof, with detailing in the eaves of the gable. Ornate storm porch and brick detailing above the windows. Brick plinth to the front elevation
2	Affordable	2 storey mid terrace	1 bed/2 person	4.5m	12.1m	5.2m	9.4m	1 space to the front of the property	Timber featheredged weatherboard. Momo-pitch front projection incorporating cycle and refuse storage. Chimney. Single storey projection to the rear.
3	Affordable	2 storey mid terrace	1 bed/2 person	4.5m	12.1m	5.2m	9.4m	1 space to the front of the property	Timber featheredged weatherboard. Momo-pitch front projection incorporating cycle and refuse storage. Chimney. Single storey projection to the rear.
4	Affordable	2 storey end of terrace	3 bed/5 person	5.5m	9.8m	5.2m	9.4m	2 spaces to the front of the property	Front to back gable roof, with detailing in the eaves of the gable. Ornate storm porch and brick detailing above the windows. Brick plinth to the front elevation
5	Affordable	2 storey detached	3 bed/5 person	5.9m	9.8m	5.2m	8.7m	2 tandem spaces to the south side of the property	Mono-pitch roof. Timber featheredged weatherboard, ornate storm porch to the principal elevation.
6	Market	2 storey detached	3 bed/5 person	5.6m	10.8m	5.2m	9.2m	2 tandem spaces to the south side of the property and a garage	Front to back gable roof, with detailing in the eaves of the gable. Ornate storm porch and brick detailing above the windows. Brick plinth to the front elevation and finished in facing brick

Plot(s)	Tenure	House Type	Bedrooms	Width	Depth	Eaves Height	Ridge Height	Garage / parking	Design Features
7	Market	2 storey detached	4 bed/7 person	10.3m (max)	10.5m (max)	5.3m	8.6m	2 tandem spaces and a garage so the south side of the property which is shared with Plot 8.	'T-shaped' dwelling with two storey rear hipped roof projection. Ornate storm porch and chimney to the roof. Finished in timber featheredged weatherboard. Wooden detailing to the side gables. Single storey side and rear projection to the rear.
8-9	Market	2 storey semi-detached	3 bed/5 person	11m	9.8m	5.2m	9.2m	Plot 8 - 2 tandem spaces and a garage to the north side of the property, which is shared with Plot 7 Plot 9 – 2 tandem spaces to the south of the property	semi-detached pair with interconnecting gables. Chimney to the roof and timber detailing to the front facing gable. Plot 8 would be finished in brick, whilst plot 9 would feature timber featheredged weatherboard at first floor and brick at ground floor. Plot 8 will feature an ornate gable storm porch whilst plot 9 will have a cantilevered porch. Brick detailing is proposed around the windows on the brick elevations.
10-11	Market	Link detached bungalow.	2 bed/4 person	8.2m (main part of single dwelling)	12.3m (max)	2.3m	6.5m	2 spaces to the side of each dwelling in the form of a driveway and link attached car port.	Hipped to gable roof form with front gable projection. Interconnecting car port and cycle store linking the two bungalows. Predominantly finished in brick, with weatherboard to the car ports and front projections. Detail to the fascia on the front gable.

- 3.1.5 In terms of landscaping, the rear (eastern boundary of the site) would consist of a native hedgerow and tree planting. The frontages of the dwellings would consist of grass, planting and hard surfaces for car parking and pedestrian access. A swale is proposed within the southwest corner of the site, with the remainder of the site frontage being soft landscaped through tree planting, lawn, the retention of the existing hedge and additional hedgerow planting.
- 3.1.6 Several trees are to be removed to facilitate the access and the footpath. G2, T1, T2, T3, T6 and T9 are classified as category C trees and groups, category C trees are not classed as a material consideration in relation to planning. T5 has also been outlined to be removed, this tree has been classed as a category B tree and is a material consideration in relation to the planning process. 21 trees are also proposed to be planted across the site as part of the soft landscaping proposals.
- 3.1.7 The Arboricultural Implications Assessment (AIA) within the report, has outlined pruning works are required to a Blackthorn (S1) to facilitate the visibility splay required for the proposed access. The AIA has also outlined protective fencing on the Tree Protection Plan (TPP).
- 3.1.8 Along the frontage of the site a footpath is proposed from the site access to outside of No. 97 south Street.
- 3.1.9 In addition to the vehicle parking provision set out in the table above, three visitor bays are proposed.
- 3.1.10 The development includes the provision of 45% affordable housing.

3.2 Conclusion

- 3.2.1 Having taken all material planning considerations into account, although the site is located outside of any settlement boundary, and that the tilted balance is no longer applicable due to the Council's Five-Year Housing Land Supply (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 5.97 years housing land supply, maintaining a minimum of a 5YHLS is reliant on a balance of delivery of housing on the ground, through the approval of new permissions. It is also acknowledged the District still has a shortfall of affordable housing. The proposal would provide 11 new homes of which 5 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 improvements to the footpath network in the immediate vicinity of the site.
- 3.2.3 In environmental terms, development would be sited outside the settlement boundary. However, the Landscape and Visual Impact Assessment (LVIA) and this report concludes that there would not be demonstrable impacts on the intrinsic character and beauty of the countryside nor harm the character and appearance of the wider area. In addition, the majority of 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.

- 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 residential properties, highway safety or nature conservation that could not be satisfactorily addressed through conditions. Likewise, 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 through the imposition of conditions subject to comments from the Lead Local Flood Authority.
- 3.2.5 The Applicant has agreed to enter into a S106 Agreement to secure obligations for the provision of affordable housing, health and a Recreational disturbance Avoidance and Mitigation Strategy (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 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
- 5 – 57 Planning conditions and obligations
- 60-84 Delivering a sufficient supply of homes
- 85-89 Building strong, competitive economy
- 90-95 Ensuring the vitality of town centres
- 96-107 Promoting healthy and safe communities
- 108-117 Promoting sustainable transport
- 123-130 Making effective use of land
- 131-141 Achieving well-designed and beautiful places
- 157-175 Meeting the challenge of climate change, flooding and coastal change
- 180-194 Conserving and enhancing the natural environment
- 195-214 Conserving and enhancing the historic environment

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

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- 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 Relevant Planning Guidance / Documents:

- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide (MDDG)
- Maldon District Vehicle Parking Standards (VPS)

4.4 Necessary Associated Infrastructure Improvements Required and/or Affordable Housing

4.4.1 The following Draft Heads of Terms have been proposed:

- Management and maintenance of the public open space
- Necessary financial contribution towards Essex Coast RAMS;
- Necessary contribution towards healthcare provision
- Necessary contributions towards Early Years and Childcare placements and provision of Secondary Education, libraries, and Secondary School Transport; and
- Necessary provision of Residential Travel Information Park for sustainable transport.
- Necessary financial contribution towards Essex Coast RAMS;

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 National Planning Policy Framework (NPPF) require planning decisions to be made in accordance with the Development Plan (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 14 key principles in policy and decision making set out in the Policy. These include principle 2 "Delivering

a sustainable level of housing growth that will meet local needs and deliver a wide choice of high-quality homes in the most sustainable locations”.

- 5.1.3 Policy S2 of the LDP allocates sites for strategic housing development in the main towns and LDP Policy S8 steers other new development towards the existing urban areas.
- 5.1.4 Under Paragraph 77 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 5 Year Housing Land Availability Report, annually, following the completion of the development monitoring activities associated with the Local Development Plan 2014-2029’s plan monitoring period of 1 April to 31 March.
- 5.1.5 Following a review into the suitability of the 5YHLS methodology through its 5YHLS working group established in August 2022, the Council confirmed that the official 5YHLS for the District of Maldon now stood at 6.35 years, updating the previous official position for 2021/2022 of 3.66 years. This position has subsequently been updated as part of a Public Inquiry relating to application 22/01174/OUTM, (relating to proposed development at Latchingdon and now awaiting an appeal decision) with the agreed position set out in the Statement of Common Ground being 5.97 years. Nevertheless, the position still stands above 5 years.
- 5.1.6 Whilst the Council is able to demonstrate a 5YHLS, it is still necessary to assess whether the proposed development is ‘sustainable development’ as defined in the NPPF. If the site is considered sustainable then the NPPF’s ‘presumption in favour of sustainable development’ applies. Furthermore, where the development plan is ‘absent, silent or relevant policies are out of date’, planning permission should be granted ‘unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted’.
- 5.1.7 It is the Council’s position that policies relevant to the assessment of the current application are still in general conformity with the NPPF and the current 5YHLS position suggests that the Council’s spatial strategy in relation to the delivery of sufficient housing land is effective. Therefore, it is considered that significant weight can still be applied to the LDP Policies, including Policy S8, in the assessment and determination of this planning application.
- 5.1.8 In October 2023 Officer’s obtained Counsel’s legal advice on the 5YHLS Statement, and in response to arguments put forward as part of this application that MDC had erred in its approach to the review of its Local Plan. Although that Counsel’s opinion is subject to legal privilege and remains confidential it serves to confirm that MDC did not err in its approach and more significantly, that the tilted balance under paragraph 11 d) of the NPPF no longer needs to be applied for sites which are not allocated for development, fall outside any defined settlement boundary and are contrary to policies of the approved Maldon District Local Plan.
- 5.1.9 The Council’s position is also underlined by recent case law in *Paul Newman New Homes Ltd v Secretary of State for Housing, Communities And Local Government* [2021] EWCA Civ 15. In that case, the Inspector, in dismissing the appeal found the Council had a five-year housing land supply and that the presumption in favour of the

development under paragraph 11 (d) – ‘the tilted balance’ was inapplicable and the benefits of the scheme did not outweigh its harms. The Court of Appeal accepted the Inspector’s conclusion, which had previously been upheld by the Planning Court. The former Aylesbury Vale District Council relied on a 2004 Local Plan which was found to be relevant, important and ‘up to date’. The salient point here being that the need for a Local Plan review does not make the Plan out of date and as such, a time expired Plan was not by this fact alone ‘out of date’ for the purpose of paragraph 11 (d) of the NPPF nor to trigger the tilted balance. The relevant policies Maldon District Local Plan are considered to be consistent with the NPPF and they are not ‘out of date’. Therefore, in line with case law, the tilted balance does not apply in this instance.

- 5.1.10 Since the application site lies outside of the defined settlement boundary for Tillingham and is not allocated for development, it would exceed the amount of development planned for on sites allocated for strategic housing growth in the Maldon District LDP under policy S2 of the LDP. Furthermore, Tillingham is not a village identified for strategic growth. However, Policy S2 does state that a proportion of new development will be directed to the rural villages to support rural housing needs, local services and facilities and the rural economy, it also notes that strategic growth within the rural villages will be related to the settlement hierarchy, reflecting the size, function, and physical capacity of the settlement. The proposed development would not result in unsustainable spatial patterns to the detriment of the wider area.
- 5.1.11 The development proposed is of a limited scale of 11 dwellings and therefore would not represent a level of unplanned growth that would put significant strain on existing infrastructure provision. Consequently, the development would not take up limited infrastructure capacity and prejudice the delivery of the development planned within the LDP. Further to this, the Applicant has expressed a willingness to provide the necessary contributions towards infrastructure through a S106 agreement therefore mitigating against the growth, albeit it is noted that an Education contribution cannot be secured due to a conflict with the three tests for planning obligations set out in the NPPF. This is discussed further in the Education section below.
- 5.1.12 In addition to the above, although the Council can demonstrate a 5YHLS, it is clear from the fact that the official supply figure has fallen from 6.35 years to 5.97 years that the supply is declining. It has also been found through applications such as 22/01174/OUTM (Land North of the Groves, Burnham Road, Latchingdon) and 23/00249/OUTM (Land West of David Fisher Way, David Fisher Way, Southminster) that there is insufficient infrastructure capacity to boost the 5YHLS through large scale, unplanned sites. It therefore, would appear that the District is in need of smaller sites to maintain a healthy 5YHLS position. Therefore, this should be achieved through the delivery of smaller, sustainably located sites.
- 5.1.13 In terms of the sustainability and accessibility of the site, Tillingham is identified as a ‘smaller village’ which is defined in the policy as a settlement ‘containing few or no services and facilities, with limited or no access to public transport, very limited or no employment opportunities.’ Although Policy S8 allows for limited development outside defined boundaries in the rural areas where the intrinsic character and beauty of the countryside is not adversely impacted upon, this is provided it is for specified purposes that do not include new build general residential properties.
- 5.1.14 Notwithstanding the above, it is acknowledged that the settlement hierarchy outlined in Policy S8 was based on an evidence base undertaken prior to 2017, some years ago. Therefore, it is possible that the services and facilities provided within the villages have changed to a degree over this time. Consequently, it is important that

the LPA take a pragmatic stance in assessing the sustainability of each village and take into account up to date evidence as well as the evidence that informs Policy S8.

- 5.1.15 In respect of the above, the Council has prepared a Draft Rural Facilities Survey which identifies Tillingham as a Larger village. According to the Draft Survey, the village has two pubs, a recycling site, a fire station, GP Surgery, two places of worship, a village hall, a Primary School, Preschool, Allotments, playground, youth facilities and sports/social facilities. Therefore, although the document does not carry full weight and is in draft format, it is apparent that Tillingham provides a reasonable level of services and facilities for day to day living, albeit there is no shop within the village. As such, there would be a requirement to travel outside of the village for groceries.
- 5.1.16 Policy T2 of the LDP relates directly to accessibility by requiring all new development proposals to 'provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate'.
- 5.1.17 The site is also located in reasonable proximity to the closest bus stop. The FC05 service is a school service that only runs Monday-Fridays and therefore, offers little benefit in terms of sustainable travel. However, the DaRT service is also available. As part of a previous considerations relating to the Dengie Dart it was found that the DaRT service that operates within the Dengie provides a limited service in respect of operational days and times and requires customers to book the service 2 hours in advance, which means that there was a lack of flexibility and a need to plan significantly in advance. This mode of transport was not considered to encourage the use of sustainable transport modes and had not historically been pivotal in the accessibility credentials of any of the areas it serves, given those highlighted limitations. Therefore, it was deemed that the limited opportunity was not likely to persuade people away from the use of their private car particularly in relation to traditional commuter times, evening and weekend activates; particularly when it is likely that these properties will be for family accommodation'. However, Since the above findings it has been brought to Officer's attention that the D4 DaRT service does not require pre-booking for all stops. It is only the stops highlighted in blue as shown below:

DaRT 4 BURNHAM-ON-CROUCH - SOUTHMINSTER - BRADWELL

Mondays to Saturdays						From: 20.10.17	Notes
						NS NS	
Burnham-on-Crouch, Clock Tower	08:30	10:40	13:55	15:30	17:22	NS	
Burnham-on-Crouch, Railway Hotel	08:33	10:43	13:58	15:33	17:25		
Burnham-on-Crouch, Maple Way	08:37	10:47	14:02	15:37	17:29		
Burnham-on-Crouch, Eves Corner	08:41	10:51	14:06	15:41	17:33		
Southfield Way, Lavender Drive	08:44	10:54	14:09	15:44	17:36		
Southminster, Steeple Road	08:45	10:56	14:11	15:46	17:38		
Southminster, High Street	08:47	10:57	14:12	15:47	17:39		
Southminster Railway Station	08:50	11:00	14:15	---	17:42	18:40	
Southminster, North End	08:53	11:03	14:18	15:48	17:45	18:43	
Asheldham, Brook Lane	08:57	11:07	14:22	15:52	17:49	18:47	
Dengie, White Horse	09:00	11:10	14:25	15:55	17:52	18:50	
Tillingham, Square	09:02	11:12	14:27	15:57	17:54	18:52	
Bradwell-on-Sea, St Peter's Court	09:05	11:16	14:31	16:03	17:58	18:56	
Bradwell-on-Sea, Kings Head	09:09	11:19	14:34	16:06	18:01	18:59	
Bradwell-on-Sea, Trusses Corner	09:11	11:21	14:36	16:08	18:03	19:01	
Bradwell Waterside, Parker Court	09:13	11:23	14:38	16:15	18:05	19:03	

TO BOOK
Phone: 01621 87 44 10
email: bookings@essexandsuffolddart.co.uk
Note: email booking is not a booking until it is confirmed by return email

This is a flexible service.

The times in blue are on request to the driver or must be pre-booked.

When you book you will be given a time. Please be at the agreed pick up point 10 minutes before.

DaRT4 BRADWELL - SOUTHMINSTER - BURNHAM-ON-CROUCH

Mondays to Saturdays						From: 20.10.17	
						NS NS	
Bradwell Waterside, Parker Court	09:15	11:25	13:05	14:40	16:20	18:07	
Bradwell-on-Sea, Trusses Corner	07:11	09:17	11:27	13:07	14:42	16:22	18:09
Bradwell-on-Sea, Kings Head	07:13	09:19	11:29	13:09	14:44	16:24	18:11
Bradwell-on-Sea, St Peter's Court	07:15	09:22	11:32	13:12	14:47	16:27	18:14
Tillingham, Square	07:20	09:26	11:36	13:16	14:51	16:31	18:18
Dengie, White Horse	07:22	09:28	11:38	13:18	14:53	16:33	18:20
Asheldham, Brook Lane	07:25	09:31	11:41	13:21	14:56	16:35	18:23
Southminster, North End	07:29	09:35	11:45	13:25	15:00	16:40	18:27
Southminster Railway Station	07:32	09:38	11:48	13:28	15:03	16:43	18:30
Southminster, High Street	09:41	11:51	13:31	15:06	16:46		
Southminster, Steeple Road	09:42	11:52	13:32	15:07	16:47		
Southfield Way, Lavender Drive	09:44	11:54	13:34	15:09	16:49		
Burnham-on-Crouch, Eves Corner	09:47	11:57	13:37	15:12	16:52		
Burnham-on-Crouch, Maple Way	09:51	12:01	13:41	15:16	16:56		
Burnham-on-Crouch, Railway Hotel	09:55	12:05	13:45	15:20	17:00		
Burnham-on-Crouch, Clock Tower	09:58	12:08	13:48	15:23	17:03		

Operated by 14 seater with wheelchair access.
Concessionary Passes will be accepted between 09:00 and 24:00 on weekdays and all day weekends and bank holidays.

Note, there is also a Stephenson's of Essex Service 104 on Schooldays Only.

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<http://www.stephensonsofsex.com>

NS Not Saturday

- 5.1.18 Notwithstanding the above, it is also noted, that Tillingham lies a fair distance from the closest train station at Southminster, which would likely be accessed by private modes of transport outside of the bus times highlighted above, which would be the case for most commuters relying on access to train stations. Further, the train service provided at Southminster is limited in itself and given the accessibility concerns is unlikely to encourage people away from using their own private means of transport.
- 5.1.19 Nevertheless, it is noted that an appeal was allowed west of the application site for 7 dwellings (22/00514/OUT) where the site was deemed sustainable. That planning history forms a material consideration to this application. As that proposal was for seven dwellings, it is not inherently different to this proposal for eleven properties. Therefore, the environmental impacts on sustainability as a result of the need to use a private form of transport would have been similar to that which would result from the units proposed as part of this scheme. Further to this, it is acknowledged that the addition of 11 units at the site would not place substantial pressure on the existing infrastructure and services of the village that would warrant a concern.
- 5.1.20 In consideration of the above, the accessibility from the site to the village of Tillingham is not considered to result in significant concerns on the principle of the development. Likewise, whilst the accessibility credentials of the site in relation to the larger towns and villages and transport hubs is not considered great, it is accepted that Tillingham itself would provide a suitable quality of life for future occupiers and there is a shopper transport service that can provide access to consumables such as groceries. Furthermore, the level of growth is unlikely to impact greatly on the capacity of the village. On this basis, it would not be reasonable to raise an objection to the development in relation to the accessibility of the site. Notwithstanding this, the site does lie outside of the settlement boundary and therefore, the development is contrary to Policy S8 of the LDP. Therefore, a planning balance, which is undertaken at section 5.13, is required as to ascertain whether a departure from the LDP is appropriate.

5.2 Housing Mix

- 5.2.1 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District, as a whole, as well as sub-areas across the District which are considered alongside the housing market geography in this report. The LHNA is wholly compliant with the latest NPPF and Planning Practice Guidance, and provides the Council with a clear understanding of the local housing need in the District and demographic implications of this, the need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build housing.
- 5.2.2 The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for 3 bed dwellings; specifically, 25-35% 2-beds and 40-50% 3-beds for market dwellings. Of the market dwellings the proposal would provide 33% as 2-beds, 50% as 3 beds and 17% as 4-beds which is in accordance with the mix set out within the LHNA.
- 5.2.3 In terms of affordable housing, the proposal would provide 100% of the rented properties as 3-beds and 100% of the Affordable Ownership dwellings as 1-beds. Whilst this does not accord with the mix set out within the LHNA, given the small number of dwellings proposed it is accepted that it would not be possible to provide a wide range of mix in terms of bedrooms. Furthermore, the development would provide 3 No. 3-bedroom rented properties which the District has a very high need for, which is considered a benefit to the scheme.

5.2.4 In consideration of the above, no objection is raised to the proposed housing mix.

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 25% of the units would need to be affordable to comply with the requirements of Policy H1. The proposed development would provide 45% 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 previously stated, the proposal would provide 45% Affordable Housing (five dwellings) which would be an over provision of the 25% required by Policy H1. Furthermore, the Strategic Housing Officer fully supports the application, noting that the over provision of affordable housing and particularly the provision of the 3No. 3-bed rented properties, all at Nationally Designed Space Standards would greatly assist in meeting the housing needs of the District.

5.3.5 The LHNA sets out that 174 rented and 35 affordable ownership homes are required across the District on an annual basis. It also states 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.'

5.3.6 Affordable housing delivery figures as out in the Strategic Housing and Housing Policies Fact Sheet across the District for the period of 2014-2021/22 shows that affordable housing delivery has been falling well short of the necessary provision. In addition to this, it has also been evidenced on appeal (APP/X1545/W/22/3303195, 9 February 2023) that there is a significant need for more affordable dwellings in the District. The Council is therefore aware that the shortfall outlined in the LHNA is now likely to be greater.

5.3.7 The over provision of 2.25 units of affordable housing, which will be provided as 3-bed rented units, the Districts greatest need, therefore, is considered to be a significant benefit to the scheme.

- 5.3.8 Of the 45% affordable housing proposed, 60% would be for rent and 40% for ownership. LHNA identifies a mix of 25% ownership and 75% rent, which meets the aims of national policy to provide 25% of affordable housing as affordable home ownership. As the proposal would provide 40% as ownership this would meet national aims for the delivery of First Homes, which would be secured through a S106 agreement.
- 5.3.9 Whilst the LHNA is clear that the greatest need within the Maldon District is for rented properties and the proposal would provide only 60% of the Affordable Housing as rented, it must be noted that there is an overprovision of affordable housing which therefore, skews the mix. Given that three rented properties would be provided and there is only a requirement for three Affordable dwellings as part of the dwelling, the proposal would provide for the District's greatest needs. Given the limited scale of the development it is considered more imperative to secure the properties that would meet the needs of the District. Therefore, the proposed mix of Affordable dwelling is justified.
- 5.3.10 Further to the above, there is still a reasonable mix of dwellings across the site. It must be recognised that when providing five affordable properties it will unlikely be feasible to provide a mix that provides all house types. Therefore, there is reasonable justification in terms of this approach for the Affordable Homes.

5.4 Design and Impact on the Character of the Area

- 5.4.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.4.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:
- “The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”
- “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account local design standards, style guides in plans or supplementary planning documents”.
- 5.4.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution. Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.4.4 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the

sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.

5.4.5 The application has been supported by a LVIA (Kirsten Bowden, May 2022). The site lies within the Tillingham and Latchingdon Coastal Farmland (E2) Character Area as identified within the Landscape Character Assessment (LCA) (Chris Blandford Associates, September 2006).

5.4.6 The key characteristics of this Area are:

- Gently undulating arable farmland behind the coastal marshland, locally quite steep.
- Heavy clay soils and lighter sandy loamy soils where sand and gravel deposits overlie clay.
- Distinctive long hedgerow boundaries running on parallel axes are a common feature, thought to be the result of ancient, planned enclosure.
- Right-angled bends in lanes reflect ancient field patterns.
- Settlement pattern follows underlying soils - sand and gravel formations on a ridge between Bradwell and Burnham – elsewhere settlement on slopes in clay areas.

5.4.7 The key planning and landscape management issues are:

- Potential further loss and decline in hedgerows due to intensive agricultural practice and lack of management.
- Pressure of increased traffic on rural and minor lanes especially during peak tourist seasons.
- Pressure from increased water-related leisure activities and effects on tranquil areas.
- Potential visual intrusion of telephone masts.
- Effects of new uses on tranquillity such as firing ranges.
- Potential for more visually intrusive expansion to the settlement edges
- Potential for visually intrusive development of new farm buildings.
- Flood protection and managed retreat issues.

5.4.8 The LCA suggests landscape planning and management guidelines which are as follows:

- Ensure that any new development responds to historic settlement pattern and scale, and uses materials that are appropriate to the local landscape character. Such development should be well integrated into the surrounding landscape.
- Conserve the mostly rural character of the area.
- Conserve panoramic long distance views to adjacent character areas of drained and open estuarine marsh.
- Conserve and restore the existing hedgerow network with particular emphasis placed on the planting and management of elm.
- Conserve historic lanes and unimproved roadside verges.
- Conserve and enhance the landscape setting of Tollesbury and other villages.

5.4.9 The LVIA concludes that the development would provide homes in a position that would fit in well on the village edge. It also notes that the retention of key features such as trees and hedges and the style of the proposal would be in keeping with the rural village layout. It is acknowledged that the wider landscape area is open, but the

site itself has some physical and visually containing features, such as the road and hedges on the western and southern boundaries which create a defined edge.

- 5.4.10 The impact of the development on the physical landscape is found to be limited to the partial loss of an arable field and a small section of the hedgerow. However, it is concluded that the loss of field would be mitigated by the proposed improvements and enhancements to the vegetation, which is in line with the LCA, ensuring that any long-term impact on the wider landscape is contained and softened.
- 5.4.11 The proposal is found to have a slight degree of impact on landscape character, but the site can absorb some development without a great detrimental impact on the LCA. The visual change is said to be contained and would not be discordant with the existing local landscape setting.
- 5.4.12 The greatest impact in terms of views, are from the dwellings adjacent to the site. Those immediately adjacent to the site would experience the greatest degree of change, with a less noticeable degree of change experienced by the wider village and landscape. Although the appearance of the site would change on approach to the village, the southern boundary vegetation would remain and the planting on all boundaries would be enhanced. Considering this the LVIA concludes that building in this location would have some impact on local landscape character and visual amenity, but the impacts would be limited and contained. Furthermore, the impacts would soften over time with the increasing maturing of the existing and proposed vegetation and as the build materials weather.
- 5.4.13 The scale of the development was found to be of a size and density that is proportional to the wider landscape setting and the dwellings would respond to the existing pattern of development.
- 5.4.14 On the basis of the above and having assessed the proposed plans, the development would largely adhere to the recommendations set out within the LVIA in that the development would respond to the existing settlement pattern and scale, with the materials being appropriate to the local landscape character, as well as improvements to existing hedgerows.
- 5.4.15 The proposal as presented would provide a green edge to the eastern edge of the development and would therefore, provide a fairly soft transition into the countryside to the east. Furthermore, it is noted that the building line fronting South Street would be set behind No. 97 to the north, which follows the staggered nature of the existing building line of South Street to the North. The development also references the layout of the existing development to the west, with the proposed bungalows mirroring the terrace of properties to the north of Southfields and taking visual cues from the curvature of the adjacent development to the west on the corner of South Street. Therefore, it can be seen that the development has taken 'prompts' from the existing pattern and scale of development, something that is also outlined within the submitted Design and Access Statement. The development would also maintain the ribbon development character that makes up this part of South Street and would be set back providing a green and soft frontage to the development. On this basis, the development would not appear as an alien feature within the streetscene but would reference the character and form of surrounding development. This sense of cohesion is further strengthened by the choice of materials and detailing proposed on the dwellings, which offers a more traditional character suitable for the area. The inclusion of features such as decorative gables, chimneys and the use of timber featheredged weatherboarding, offers visual interests to the dwellings whilst maintaining the character of the area. However, a condition would be required to

ensure the quality of the materials used. These points demonstrate that the development would largely accord with the recommendations put forward in the LVA.

- 5.4.16 Whilst the proposal would result in some loss of hedgerow, it is noted that increased planting is proposed within the site, and as stated the eastern boundary would benefit from a soft landscaped edge, which would help mitigate against the loss of hedgerow to the front boundary. The soft landscaping could and should be secured through a condition.
- 5.4.17 In terms of views, it is noted that there are possible long views of the site available from Grange Road to the south. However, the proposal includes the provision of soft boundary treatments which would screen the proposed hard boundary treatments, such as close boarded fencing. Further, given the existing built form to the north of South Street it is not considered that these views would be demonstrably impacted upon.
- 5.4.18 Some elements of the scheme such as parking to the dwelling frontages at Plots 2 and 3 are not considered wholly positive. However, it must be recognised that this is common method of parking within the surrounding area, and that the proposal would include suitable soft landscaping and would only affect two plots which would reduce the impacts.
- 5.4.19 The introduction of built form onto a greenfield site outside of the settlement boundary will inevitably alter the character and appearance of the area, this is an accepted point in planning in respect of development. 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 discussed. Whilst the proposal would alter the open character of the edge of the village, the rural character of the wider area would be maintained, and the development would fit into the existing context of the streetscene. It is also clear from the above assessment that, the development would not have a significant adverse impact on the character and appearance of the area. In fact, a number of the scheme's elements are considered to adhere to good design principles. On this basis, the proposal is not considered to materially impact on the intrinsic character and beauty of the countryside or the surrounding area.

5.5 Impact on Designated Heritage Assets

- 5.5.1 The proposal would be situated approximately 120m from the Tillingham Conservation Area. Given the distance of the Conservation Area from the application site, the proposal would not affect any important views or from the conservation area. This accords with the comments made by the Principal Conservation and Heritage Officer. On this basis, no objection is raised in terms of heritage impacts.

5.6 Impact on Residential Amenity and Amenity of Future Occupiers

- 5.6.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.6.2 The dwelling proposed at Plot 1 would be located approximately 1.5m from the northern boundary shared within No. 97 South Street and approximately 9m from the neighbouring property itself. Given the separation distance between the proposed and neighbouring dwelling and the size of the neighbouring plot, there are no concerns in relation to the development being overbearing or resulting in a loss of light. Furthermore, although there is one first floor window proposed in the northern

elevation of Plot 1, this would serve a bathroom and so could be conditioned to be obscure glazed. Therefore, there would not be detrimental impacts to No. 97 South Street.

- 5.6.3 It is noted that there have been a number of letters of objection received relating to noise impacts from the construction and operational phases of the development. It is expected that there would be a level of disturbance from the construction phase, but this could and should be managed through a Construction Management Plan condition. In respect of the operational phase, there is no reason to believe that 11 dwellings would pose any further noise or disturbance impacts over and above that which is already experienced by neighbouring residential uses. There would be some increase in vehicle movements, but these would be minor and would not cause undue disturbance.
- 5.6.4 In relation to the interrelationship between the proposed dwellings, any first floor windows in the side elevations of the properties would serve bathrooms and therefore, would be conditioned to be obscure glazed.
- 5.6.5 Plots 2 and 3 would have single storey rear projections which extend beyond the rear of plots 1 and 4. However, given their limited height and extent they would not cause demonstrable impacts to neighbouring amenity. Likewise, the two-storey rear projection on Plot 7 would be set a suitable distance from the boundaries and would be obscured by garages in Plots 6 and 8. Therefore, not causing demonstrable harm.

5.7 Access, Parking and Highway Safety

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

Access

- 5.7.2 Access to the site would be gained from the eastern side of South Street. Following consultation with the Local Highways Authority the proposed access would be acceptable and would provide sufficient visibility splays in accordance with the necessary standards. Consequently, there is no objection to the proposed access subject to conditions. A condition requiring a Construction Management Plan is required to ensure that there are limited impacts to the highway network during the construction period. A condition securing the visibility splays, provision of the proposed footpath, access and dropped kerb crossings is necessary to ensure suitable access provisions are provided. Lastly, a condition ensuring no unbound materials shall be used within 6m of the highways will prevent safety concerns over the displacement of loose material onto the highway.

Trip Generation

- 5.7.3 The submitted Transport Assessment includes an assessment of the trip generation likely to arise from the site. The findings are that the proposed development would provide 6 two-way vehicle trips during the AM peak hour period and 5 two-way vehicle trips during the PM peak hour. This level of vehicle movements is negligible and would not adversely impact the local highway network.

- 5.7.4 Notwithstanding the above, in order to encourage the use of sustainable transport methods a condition requiring a Travel Information Pack, including six one day travel vouchers will be imposed.

Parking

- 5.7.5 The Council's adopted VPS 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.
- 5.7.6 The Councils adopted VPS SPD required that one-bedroom dwellings should provide one parking space per unit, two-and three-bedroom units, two spaces, and four+ bedroom units, three spaces per dwelling unit. There should also be one vehicle charging point per dwelling and one visitor space per four dwellings. Car parking spaces should measure as follows:

Type of parking bay	Dimensions (width/length)
Parking bay	2.9m x 5.5m
Parking bay that has an EV charging point located within the footprint of the bay	2.9m x 5.7m
Parking bay in front of a garage to allow the opening of a garage door	2.9m x 6m
Parallel parking bay - on a highway where there is a footway	2m x 6m
Parallel parking bay - on a highway where there is no footway	2.5m x 6m
A parking bay for people with disabilities (note: parking bay and transfer area must be on the same level).	3.6m x 6m
Extended car parking space for people with disabilities using converted commercial vehicles	4.8m x 8m
Parking bay for:	
Vans	3.5m x 8m
Rigid lorries	4m x 12m
Articulated lorries	5m x 18m

Type of garage/carport	Internal dimensions (Width/length)
1 car garage	3m x 7m
2 car double garage	6m x 7m
2 car tandem garage	3m x 13m
Car port for 1 car	3m x 6m

- 5.7.7 Each dwelling would be provided with the required number of parking spaces to the specified standards, including the spaces to be provided within garages. Furthermore, the provision of Electric Vehicle Charging points can be secured by way of a condition. The development would also provide three visitor parking bays, which meets the requirement of one space for every for dwellings.
- 5.7.8 In relation to cycle parking each dwelling would be provided with cycle storage either with the rear garden, a garage or a separate storage area to the front of the property in relation to Plots 3 and 4 and within the carport provided at Plots 10 and 11.
- 5.7.9 C11 of the MDDG states that cycle parking should be provided externally, sited sensitively, be well screening and not project forward of the building line. Whilst the cycle storage provided at Plots 2 and 3 would be forward of the building line, it would be located within the porch area of the dwellings and would be well integrated into the design of the dwelling, whilst also being accessible. Given that these two dwellings are terraced properties this is a suitable and well executed approach to cycle storage.

5.8 Private Amenity Space

- 5.8.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats. It is expected that each dwelling should provide the required level of amenity space provision, particularly as the site is not in safe walking distance for children to access nearby playgrounds by themselves, and the development does not include the provision of a play equipment.
- 5.8.2 The submitted block plan demonstrates that private amenity space provision would be provided to a suitable size and usable shape. Therefore, no objection is raised.

5.9 Impact on Ecology, Trees and Biodiversity

Ecology

- 5.9.1 The application has been supported by an Ecological Assessment (Ref 034/23). Place Services as the Councils Ecological consultant have provided comments on the application and are satisfied that the mitigation proposed in relation to reptiles and habitat creation is acceptable subject to a condition. However, in the absence of mitigation for other protected or Priority species which are likely to be on site a condition should be imposed securing a Construction Environmental Management Plan for Biodiversity (CEMP). The CEMP should include a precautionary method statement for Great Crested Newts during the construction stage.
- 5.9.2 The Ecological Assessment also includes reasonable biodiversity enhancements of six bat boxes, four sparrow boxes, three swift boxes, hedgerow creation/gapping up and hedgehog friendly fencing to secure net gains for biodiversity. These should be secured by a condition that requires a Biodiversity Enhancement Strategy.
- 5.9.3 A condition requiring a sensitive lighting scheme for bats commuting/foraging around the site should also be included.

Trees

- 5.9.4 The application has been supported by a Tree Survey which outlines that six trees and three groups are classed as Category U and will be removed to facilitate the development. The Tree Consultant notes that irrespective of the development these trees need to be removed due to their condition.
- 5.9.5 T5 is a category B tree which is proposed to be removed for the purpose of facilitating the new access. As the proposal would provide mitigation in the form of 21 newly planted trees the impact on the amenity of the area will be addressed and therefore, no objection is raised to its removal.
- 5.9.6 The development will also involve pruning works to S1 to facilitate the visibility splay required for access to the site. These works are said by the Arboricultural Consultant to not be detrimental to the shrub group.
- 5.9.7 Whilst the protective fencing on the Tree Protection Plan is suitably located, no specification has been provided other than it will be in accordance with British Standard 5837:2012. Therefore, a tree protection condition should be included on any approval.

5.10 Drainage and Flood Risk

- 5.10.1 The site is located in Flood Zone One and is therefore, at low risk of flooding. The application has been supported by a Flood Risk Assessment Technical Note (Ref 2108-601-2 November 2023). The Lead Local Flood Authority (LLFA) have been consulted on the application but have not yet responded. However, given that the LLFA raised no objection subject to conditions to the previously withdrawn scheme for nine dwellings (23/00569/FUL) which proposed a similar scheme in terms of flood risk and drainage, it is unlikely that any objection will be raised to this development. However, if Sustainable Drainage Systems (SuDS) do raise an objection, then this will need to be addressed prior to any approval of the application.
- 5.10.2 Anglian Water has also been consulted on Foul Drainage and note that the Tillingham Water Recycling Centre has capacity to accept the flows. Therefore, there are no concerns in relation to foul drainage.
- 5.10.3 It is noted that there have been concerns raised over drainage capacity and flooding by members of the public. However, on the basis of the above it would not be reasonable to raise an objection on these grounds. It is also noted that a development is required to deal with its own surface water and should not be required to mitigate against an existing issue.

5.11 Waste Management

- 5.11.1 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'. It also states that storage areas should be convenient for residents and attractive where they can be seen from streets and spaces.
- 5.11.2 Bin storage will largely be provided in rear gardens with the exception of Plots 2 and 3 which will be provided in a covered porch area to the front elevation. The design of the bin area is integrated into the dwelling and does not appear as a separate or unsightly feature and is located in a convenient space for a terraced property.

Furthermore, the rear garden storage is considered to be set out of public view in a convenient location. Therefore, no objection is raised.

5.12 European Designated Sites

5.12.1 The application site falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure etc.

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

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

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

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

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

Test 2 – the integrity test

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

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

5.12.3 As the answer is no, it is advised that a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the above European sites from recreational disturbance, when considered 'in combination' with other development. NE does not need to be re-consulted on this Appropriate Assessment.

5.12.4 The Essex Coastal RAMS document has been adopted. The submitted Planning Statement 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. Therefore, subject to securing the necessary mitigation through the S106 no concerns are raised.

5.13 Other Material Considerations

Education and Library Contributions

5.13.1 Essex County Council (ECC) as the Education Authority has been consulted on the proposal but has declined to comment on the basis that it only requires contributions for sites of 20 dwellings or more. Therefore, despite the Developers willingness to

provide a contribution towards Early Years, Primary and Secondary Education, School Transport and Libraries, given that ECC feel that the scale of development falls below their threshold it must be deemed that the contribution would not be fairly and reasonably related in scale and kind to the development or that it would be necessary to make the development acceptable in planning terms. On this basis no education contribution is required.

Health

- 5.13.2 Policy I1 seeks to maintain and improve infrastructure provision in the District by ensuring that an appropriate level and type of infrastructure is provided for new developments where required to meet community and environmental needs. It outlines that Developers will be required to contribute towards local and strategic infrastructure and services necessary to support the proposed development. Mitigation can be secured through a S106 agreement.
- 5.13.3 As the development would involve more than 10 dwellings the NHS has been consulted on the application. In their response the NHS have stated that the capacity of primary healthcare facilities in the area of the proposed development is already below recognised standards of provision for the existing population. Additional growth in the area resulting from the proposal would add to the deficit and so would be unsustainable without mitigation.
- 5.13.4 The proposal is projected to create an additional population of 26 persons, creating a need for £5,100 to provide the additional floorspace required. The developer has agreed to make the necessary financial contribution to address this shortfall. Therefore, subject to securing a S106 Agreement, no objection is raised.

Archaeology

- 5.13.5 The Essex Historic Environment Record (EHER) shows that the proposed development is sited next to an area of known archaeological potential. In the prehistoric period Tillingham was essentially a coastal site, located at the end of a gravel ridge bordered by salt-marsh. There are a number of Neolithic, and Bronze Age finds from the Tillingham area. There is also crop-mark evidence of settlement of the area within the prehistoric and Roman periods, which includes both rectangular enclosures and ring-ditches. In addition, there are numerous Red Hills dating to the late Iron Age and Roman period along the old interface between dry land and marsh. Tillingham first appears in the historical record c. 610 in the *Cartularium Saxonicum*, when it was granted by King Ethelbert of Kent to Bishop Mellitus to help fund his new Bishopric of London. In 1066 the Domesday Book records the *vill* of Tillingham as being a single manor, still belonging to St Paul's. The Dengie peninsula is divided into rectilinear fields of probable middle and late Saxon date. The village was located in the centre of the parish, next to the church. The village area was centred on the Square, which was bordered by the church on the northern side, cottages on the east and south sides and the road on the west. The road was unusually wide at this point, possibly forming a long green or common. Archaeological fieldwork on the opposite side of the road recorded a medieval toft or croft (EHER 49211).
- 5.13.6 On the basis of the above, following consultation with the Historic Environment Officer, a full archaeological condition should be attached to any planning consent. This is in line with advice given the National Planning Policy Framework.

Previous applications

- 5.13.7 It is acknowledged that there have been two applications (15/00483/OUT and 14/01024/OUT) on the wider site for 85 and 90 dwellings that were refused, with application 14/01024/OUT also being dismissed at appeal. Whilst these decisions are material considerations for this application, it is noted that these were for a much larger scale and therefore, their negative impacts on the character and appearance of the site, the wider area and Conservation Area, to which it was sited closer to, are not directly comparable to this proposal. Therefore, they do not alter the considerations set out in sections 5.4 and 5.5 above.

5.14 Planning Balance and Sustainability

- 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 South Eastern 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.
 - There would be off-site highway works that would improve footpaths in the immediate vicinity of the site
 - 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 Tillingham
 - 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 disadvantages of the development, which cannot be mitigated, are considered to be as follows:
- A limited loss of agricultural land
 - A low level of harm to the character and appearance of the surrounding area.
- 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 Tillingham. 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 the development is of a size that would unlikely put 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 11 homes, five 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, that position is falling and a development on a site of this size can be brought forward quickly without significant pressures on infrastructure helping to maintain the current supply, which is not a ceiling to development. Given the limited size of the site this is considered a benefit of moderate weight.
- 5.14.9 In addition to the above and specifically in respect of the affordable housing, the scheme would provide 20% more affordable housing than required by Policy H1. In accordance with the recent appeal decision at Great Totham and as set out in the relevant section above, the benefit of the affordable housing has increased, and significant weight is given to this in the planning balance.
- 5.14.10 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, there would be a limited degree of adverse impact on the intrinsic character and beauty of the countryside or the character and appearance of the wider area. Nevertheless, this level of harm has not been found to be unacceptable. The development, however, would not be for one of the thirteen exception schemes listed within Policy S8 and therefore, due to the site being located outside the settlement boundary, the development is contrary to Policy S8.
- 5.14.11 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 of 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.
- 5.14.12 For the above reasons, although outside of the defined development boundary for Tillingham, 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.

- 5.14.13 In relation to the above, it is noted that the Council refused a planning application (22/00123/OUTM) at Land Rear of 9 Church Road Wickham Bishops, which proposed 50 dwellings and a 10% over provision of affordable housing. However, since the determination of that application the 5YHLS has reduced highlighting a need to maintain the supply. Furthermore, that application was for Outline and therefore, its benefits to the supply would not have been realised as quickly given that a Full Application for 11 dwellings can be delivered much quicker. It is also recognised that the provision of 11 houses would have a lesser strain on local infrastructure and services than 50 houses which weighs in favour of this application. For these reasons it is reasonable to reach a different conclusion as part of this application.

5.15 Pre-commencement Conditions

- 5.15.1 The proposal requires the use of pre-commencement conditions. In accordance with Government Guidance the Applicants agreement to these conditions was sought and was agreed in writing on 21 March 2023.

6. ANY RELEVANT SITE HISTORY

- **14/01024/OUT** - Outline application for up to 90 dwellings, with associated access, highway works, parking, landscape, open space, play space, drainage and infrastructure. **Appeal Dismissed**
- **15/00483/OUT** - Outline application for up to 85 dwellings with associated access, highways works, parking, landscape, open space, play space, drainage and infrastructure. **Refused.**
- **17/00713/OUT** – Outline planning application for change of use of land to residential and construction of 14 residential dwellings. **Withdrawn**
- **17/01327/OUT** - Change of use of land to residential and construction of 14 residential dwellings (Resubmission of previously withdrawn application to include Flood Risk Assessment and Surface Water Management Strategy). **Withdrawn**
- **23/00372/FULM** - Residential development for 10 dwellings, formation of new vehicular and pedestrian access, associated open space, parking and landscaping – **Withdrawn**
- **23/00569/FUL** - Residential development for 9 dwellings, formation of new vehicular and pedestrian access, associated open space, parking and landscaping – **Withdrawn**

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Tillingham Village Council	<ul style="list-style-type: none"> • The Council can demonstrate a 5YHLS. • Unsustainable location and not well served by public transport. • Negative impacts on the Conservation Area. • Urbanising impact on the character and appearance of the area. • Impacts on the rural landscape • Overdevelopment for the village • No evidence of need for the housing and no local support. • Poor employment opportunities. • Poor highway infrastructure. • Will not meet specialist needs. • Education and healthcare infrastructure shortfall. • Impacts on the highway network through traffic generation. • Lack of foul water capacity. • Pollution concerns. • Wildlife concerns. 	<ul style="list-style-type: none"> • Addressed at sections 5.1 and 5.14. • Addressed at section 5.1. • Addressed at section 5.5. • Addressed at section 5.4. • Addressed at section 5.4. • Addressed at section 5.1. • Addressed at section 5.1. • Addressed at sections 5.1 and 5.7. • Addressed at sections 5.2 and 5.14. • Addressed at sections 5.1, 5.13 and 5.14. • Addressed at section 5.7. • Addressed at section 5.10. • The development is not of a size and scale that would cause demonstrable impacts. • Addressed at section 5.9.

Name of Parish / Town Council	Comment	Officer Response
	<ul style="list-style-type: none"> Risk of future precedent. 	<ul style="list-style-type: none"> Each application must be assessed on its own merits.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Local Highways Authority	No objection subject to conditions requiring a Construction Method Statement, the implementation of the highway works, no use of unbound material within 6m of the highway boundary and the provision of a Residential Travel Information Pack	Addressed at section 5.7
Natural England	A Habitats Regulation Assessment should be completed in relation to the recreational pressure impacts on habitat sites (European Sites)	Addressed at section 5.12
Archaeology	The Essex Historic Environment Record (EHER) shows that the proposed development is sited next to an area of known archaeological potential. In the prehistoric period Tillingham was essentially a coastal site, located at the end of a gravel ridge bordered by salt-marsh. There are a number of Neolithic, and Bronze Age finds from the Tillingham area. There is also crop-mark evidence of settlement of the area within the prehistoric and Roman periods, which includes both rectangular enclosures and ring-ditches. In addition, there are numerous Red Hills dating to the late Iron Age and Roman period along the old interface between dry land and marsh. Tillingham first appears in the historical record c. 610 in the <i>Cartularium Saxonicum</i> , when it was granted by King Ethelbert of Kent to Bishop Mellitus to help fund his new Bishopric of London. In 1066 the Domesday Book records the <i>vill</i> of Tillingham as being a single manor, still belonging to St Paul's. The Dengie peninsula is divided into	Addressed at section 5.13

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>rectilinear fields of probable middle and late Saxon date. The village was located in the centre of the parish, next to the church. The village area was centred on the Square, which was bordered by the church on the northern side, cottages on the east and south sides and the road on the west. The road was unusually wide at this point, possibly forming a long green or common. Archaeological fieldwork on the opposite side of the road recorded a medieval toft or croft (EHER 49211).</p> <p>A full Archaeological condition is recommended.</p>	
NHS	The capital required to create additional floorspace to support the increase in population (26 persons) is calculated to be £5,100.	Addressed at section 5.13
Education	No comment as development falls below the threshold of 20 dwellings for education contributions.	Addressed at section 5.13
Essex Police	No apparent concerns with the layout, but further detail in relation to lighting and physical security measures are suggested.	Noted. However, this is not a planning requirement.
Anglian Water	<p>Foul drainage is in the catchment of Tillingham Water Recycling Centre that will have capacity for the flows.</p> <p>The sewage system also has capacity to accept the flows.</p>	Addressed at section 5.10
Lead Local Flood Authority	No comments received at the time of writing this report.	Noted. However, no objection was raised to application 23/00569/FUL subject to conditions and given the limited difference between these proposals it is unlikely an objection would be raised.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Ecology	<p>No objection subject to securing biodiversity mitigation and enhancement measures as well as a proportionate financial contribution towards Essex Coast RAMS.</p> <p>Conditions are proposed requiring a Construction Environmental Management Plan for Biodiversity, a Reptile Mitigation Strategy, a Biodiversity Enhancement Strategy and a Wildlife Sensitive Lighting Design Scheme.</p>	Addressed at section 5.9
Environmental Health	<p>No objections:</p> <p>The submitted phase 1 geo-environmental desk study does not identify any likely sources or pathways for contamination and no further action is recommended. A standard construction management plan condition could be considered in order to help minimise impacts on the residential amenity of neighbouring properties during the construction phase.</p>	Noted
Housing	<p>Strategic Housing Services fully supports this Application which is providing an additional level of Affordable Housing of 45% provision as compared to the required 25% detailed in Policy H1 of the Local Development Plan 2014- 2029. In particular this Application is providing 3 x 3 bed Rented dwellings. The Housing Register demonstrates a very high need for 3 bed properties, particularly at social rent levels which are more affordable to low income families, which is currently the greatest need at Social Rent levels. In addition, the Applicant has confirmed all Affordable units will be built to Nationally Designed Space Standards. These properties will greatly assist in meeting the Housing needs of the district.</p>	Addressed at section 5.3
Arboriculture	Six trees and three groups have	Addressed at section 5.9

Name of Internal Consultee	Comment	Officer Response
	<p>been classified as Category U and are to be removed to which no objection is raised.</p> <p>Several trees are to be removed to facilitate the access and the footpath. G2, T1, T2, T3, T6 and T9 are classified as category C trees and groups, category C trees are not classed as a material consideration in relation to planning and no objection is raised to their removal. T5 has also been outlined to be removed, this tree has been classed as a category B tree and is a material consideration in relation to the planning progress. No objection is raised to the removal of the tree but mitigation is required. 21 trees are proposed to be planted which is considered suitable mitigation.</p> <p>A good range of species has been proposed with suitable aftercare being outlined within the plan from an arboricultural perspective.</p> <p>The Arboricultural Implications Assessment (AIA) within the report, has outlined pruning works have to S1 to facilitate the visibility splay required for the proposed access but no further specification has been provided within the application. These works to S1 should not be detrimental to the shrub group. The AIA has also outlined protective fencing on the Tree Protection Plan (TPP). The positioning of the protection is suitably located to protect the retained trees. However, no specification on the protective fencing has been provided within the report but it has been stated that fencing and ground protection will be in accordance with British Standard 5837:2012.</p> <p>A condition is required for tree protection during the development.</p>	
Conservation	The proposal will have no impact on the setting or significance of any	Addressed at section 5.5

Name of Internal Consultee	Comment	Officer Response
	nearby designated heritage assets. The Tillingham Conservation Area is some distance to the north of the site. The proposed development would not affect any important views of or from the conservation area	

7.4 Representations received from Interested Parties (*summarised*)

7.4.1 **56** 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
<ul style="list-style-type: none"> • Outside the settlement boundary • Impacts on the Conservation Area and historic character of the village. • Impacts on the character and appearance of the area and countryside including its tranquillity. • Unsustainable development where the benefits do not outweigh the harm. • Lack of road, health and education infrastructure • Not allocated for development in the Local Plan • Traffic impacts on neighbouring amenity • Sewage and electricity capacity concerns • Broadband supply concerns • Lack of sustainable transport options. • Flood risk concerns • Impacts on tourism potential 	<ul style="list-style-type: none"> • Addressed at section 5.1 • Addressed at section 5.5 • Addressed at section 5.4 • Addressed at section 5.14 • Addressed at sections 5.1, 5.7 and 5.13 • Addressed at section 5.1 • Addressed at sections 5.6 and 5.7 • Addressed at section 5.10. The provision of 11 dwellings would not put a strain on electricity supply. • Superfast broadband is proposed to be secured by a condition. • Addressed at section 5.1 • Addressed at section 5.10 • The scale of development would not reduce the villages ability to provide for tourism and would provide benefits towards the local economy.

Objection Comment	Officer Response
<ul style="list-style-type: none"> • Ecological impacts • Noise impacts • Loss of agricultural land • Lack of shops • Housing is not needed and affordable housing shortfall should not be provided in Tillingham • Lack of employment opportunities. • Council has a 5YHLS • The landscaping and infrastructure will not be implemented and managed • This will set a precedent for future development • Design concerns 	<ul style="list-style-type: none"> • Addressed at section 5.9 • Addressed at section 5.6 • The development would not result in the substantial loss of high quality agricultural land. • Addressed at sections 5.1, 5.2 and 5.3. Affordable housing is a District wide need. • Addressed at section 5.1 • Addressed at section 5.1 • This will be managed through conditions and a S106 agreement. • This is not a planning consideration. • Addressed at section 5.4

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

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 space 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 45% 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 60% affordable rent / 40% 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.

- All affordable housing to be provided at Nationally Described Space Standards.
- Affordable dwellings should be built to M4(2) standards, with 10% being M4(3) standard.

Health Care Contributions

- £5,100 healthcare contribution

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.

PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out and retained in complete accordance with following approved drawings:
 - 2108-601-2 005B
 - 2108-601-2 001E
 - 21/20/01
 - 21/20/05
 - 21/20/15 Rev B
 - 21/20/16 Rev A
 - 21/20/17
 - 21/20/18 Rev A
 - 21/20/19 Rev A
 - 21/20/20
 - 21/20/21
 - 21/20/23
 - 21/20/24
 - 21/20/25
 - 21/20/26
 - 21/20/27
 - 21/20/28
 - 2108-601-2 002 Rev E
 - 2022_088 002 Rev E
- 3 Prior to their use in the development hereby approved, details and photographs or samples of the materials to be used in the construction of the external surfaces, including windows and doors, of the development hereby approved shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
REASON In the interests of protecting the rural character of the area in accordance with Policies S8 and D1 of the LDP.

- 4 The development shall be implemented in accordance with the dwelling mix hereby approved, which is as follows:
Open market houses:
- 2 No. 2 bed dwellings,
 - 3 No. 3 bed dwellings
 - 1 No. 4 bed dwelling
- Affordable dwellings:
- 2 No. 1 bed ownership dwellings
 - 3 No. 3 bed rented dwellings.
- REASON In order to ensure that an appropriate housing mix is provided for the proposed development taking into account the objective of creating a sustainable, mixed community contained in Policy H1 of the approved Maldon District Development Local Plan and the guidance contained in the National Planning policy Framework.
- 5 The hard and soft landscape works and boundary treatments shall be carried out in accordance with plan 2022_088 02 Rev E.

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

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

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

6. 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.

7. 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.

8. 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:
- Limiting discharge rates to 1/7l/s for all storm events up to and including the 1 in 100 year plus 45% allowance for climate change storm event
 - Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 45% climate change critical storm event
 - Provision of 10% urban creep allowance
 - The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
 - Detailed engineering drawings of each component of the drainage scheme.
 - A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
 - A written report summarising the final strategy and highlighting any minor changes to the approved strategy

The scheme shall subsequently be implemented prior to occupation.

REASON In the interest of surface water flooding in accordance with Policy D5 of the Maldon District Local Development Plan.

9. 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 In the interest of surface water flooding and contamination in accordance with Policy D5 of the Maldon District Local Development Plan.

10. Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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

REASON In the interest of surface water flooding in accordance with Policy D5 of the Maldon District Local Development Plan.

11. 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 In the interest of surface water flooding in accordance with Policy D5 of the Maldon District Local Development Plan.

12. Prior to the commencement of the development a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) including precautionary method statements for Great Crested Newts, nesting birds, and small mammals.
- 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 & habitats species 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).

- 13 No development shall take place until a Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles has been submitted to and approved in writing by the local planning authority.

The Reptile Mitigation Strategy shall include the following.

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance of the Receptor area(s).
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

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

REASON To conserve protected and Priority species & habitats species 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 any works above ground level a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs 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 conserve protected and Priority species & habitats species 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).

- 15 Prior to first occupation, a lighting design scheme for biodiversity in accordance with GN:08/23 Bats and Artificial External Lighting (ILP) 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 conserve protected and Priority species & habitats species 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).

- 16 No works above ground level associated with the development hereby approved shall take place until a strategy to facilitate superfast broadband for the future occupants of the dwellings hereby approved, either through below ground infrastructure or other means, has been submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the agreed details.

REASON To improve broadband coverage in rural areas in accordance with Policies S1 and S7 of the Maldon District Local Development Plan.

- 17 Prior to any works above ground level 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 avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon District Local Development Plan

- 18 Prior to the occupation of the development hereby approved, at least one electric charging point per dwelling shall be provided for vehicles and electric bicycles and shall be retained thereafter.

REASON In order to promote sustainable travel and reduce carbon emissions in accordance with Policy D2 of the Local Development Plan.

- 19 No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved

in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for;

- a. the parking of vehicles of site operatives and visitors,
- b. loading and unloading of plant and materials,
- c. storage of plant and materials used in constructing the development,
- d. wheel and underbody washing facilities.

REASON: In the interest of neighbouring amenity and highway safety in accordance with policies, T2 and D1 of the Maldon District Local Development Plan.

- 20 Prior to the first occupation of the development the access arrangements and off-site highway works, as shown in principle on planning drawing no. 21/20/15 Rev A, shall be fully implemented and retained as such for the life of the development. All details to be agreed with the Highway Authority*, and to include, but not limited to the following:

- Provision of minimum visibility splays of 2.4m x 43m clear to ground, as measured from and along the nearside edge of the carriageway
- A bellmouth access with minimum radii of 6m with dropped kerb crossing points across it
- Provision of a 2m wide footway along the site frontage to the north
- Provision of a pair of dropped kerb pedestrian crossings, with tactile paving, from the new footway across South Street.

REASON To ensure that safe and appropriate access is provided and promoting sustainable and accessible development and transport in accordance with Policies S1, T1 and T2 of the Maldon District Local Development Plan.

- 21 Prior to the first occupation of the development, the vehicle parking and turning areas, as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. Each dwelling will be provided with the required number of vehicle parking spaces as set out within the Maldon District Vehicle Parking Standards. The parking and turning areas shall be retained as such for the life of the development.

REASON: To ensure that vehicle parking is in accordance with the Vehicle Parking Standards SPD and policies D1 and T2 of the Maldon District Local Development Plan.

- 22 The bicycle parking facilities as shown on the approved plans which are attached to, and form part of this permission shall be provided in accordance with the approved scheme prior to the first occupation of the development and retained for such purposes thereafter.

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.

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

REASON To avoid displacement of loose material onto the highway in the interests of highway safety and in accordance with Policies S1 and T2 of the Maldon District Local Development Plan.

- 24 Prior to occupation of the development hereby approved, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport for each dwelling. The packs 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 in accordance with policies S1 and T2 of the approved Local Development Plan and the guidance contained in the National Planning Policy Framework.

- 25 Prior to the first occupation of the dwellings hereby permitted, the first floor window(s) in the north or south elevations of all Plots shall be glazed with opaque glass and of a non- openable design with the exception of a top hung fanlight (which shall be at least 1.7m above internal floor level) and shall be retained as such thereafter.
REASON To prevent overlooking in accordance with Policies S1 and H4 of the Maldon District Local Development Plan.
- 26 During construction of the development hereby permitted, the trees located adjacent (Land South of 97 South Street) shall not be lopped or felled without the written consent of the local planning authority.
REASON In order to maintain the existing vegetation at the site, which makes an important contribution to the character of the area, and to accord with Policies S1 and D1 of the Maldon District Local Development Plan.
- 27 During construction of the development hereby permitted, any trees within or near to the site shall be protected in accordance with the requirements of BS 5837 (2012) 'Trees in Relation to Design, Demolition and Construction'.

The protection measures shall be implemented prior to any below ground works and shall be retained for the entire period of the duration of any work at the site, in connection with the development hereby permitted.

REASON In order to maintain the existing vegetation at the site, which makes an important contribution to the character of the area, and to accord with Policies S1 and D1 of the Maldon District Local Development Plan.



**REPORT of
ASSISTANT DIRECTOR: PLANNING AND IMPLEMENTATION**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
10 APRIL 2024**

Application Number	24/00105/FUL
Location	Town Steps The Quay Burnham-on-Crouch Essex
Proposal	Construction and installation of a replacement town pontoon, which includes replacement floating pontoon, refurbishment and reinstallation of access walkway and associated works.
Applicant	Ms Katy Moore – Maldon District Council
Agent	Mr Alan Dempsey – Nex Architecture
Target Decision Date	10.04.2024
Case Officer	Juliet Kirkaldy
Parish	BURNHAM SOUTH
Reason for Referral to the Committee / Council	Council application

1. RECOMMENDATION

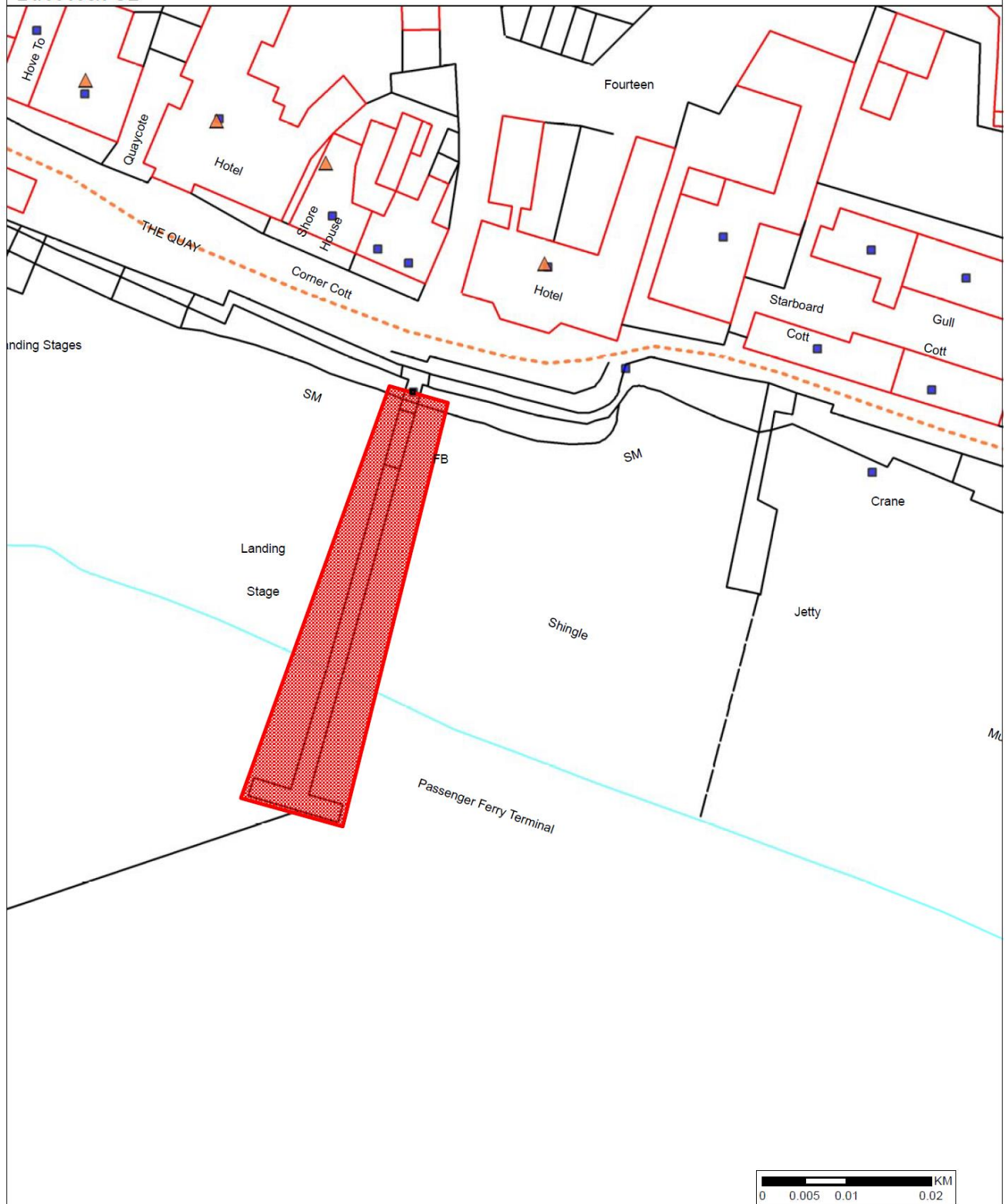
APPROVE subject to the conditions (as detailed in Section 8 of this report).


2. SITE MAP

Please see below.

Town Steps - The Quay - Bunrham On Crouch

24/00105/FUL



 <p>Copyright For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p> <p>www.maldon.gov.uk</p>	Scale:	1:625
	Organisation:	Maldon District Council
	Department:	Department
	Comments:	South East Area Committee
	Date:	20/03/2024
	MSA Number:	100018588

3. SUMMARY

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

- 3.1.1 The application site is located in an area of intertidal mudflats and foreshore on the seaward side of the seawall within Burnham-on-Crouch Conservation Area, opposite the junction of The Quay with Shore Road and The Anchor Hotel.
- 3.1.2 The Quay forms part of a National Cycle Route and accommodates a Public Right of Way (PROW) (No 11. Burnham-on-Crouch). The site extends down to Low Water Level of the River Crouch and is tidal. There are neighbouring jetties / pontoons along The Quay.
- 3.1.3 The application site is the same location / footprint as the previous 'Town Steps Pontoon' which was destroyed during Storm Eunice in 2022. The five existing piles remain in place.
- 3.1.4 The proposal includes a replacement floating pontoon, refurbishment and re-installation of access walkway, and associated works.
- 3.1.5 Access to the site is gained by a gate 'Ferry Gate' which has a width of 2.5 metres. The application does not propose an alteration to the existing gate or the existing sea wall (owned by the Environment Agency).
- 3.1.6 It is proposed to reuse the existing five piles and access bridge which has a length of 7.5 metres and width of 1.7 metres. The access bridge was salvaged after the storm and is currently in storage. A structural inspection carried out in October 2023 concluded that these structures were in sound condition and suitable for reuse.
- 3.1.7 The access deck would have a length of approximately 42 metres and a width of 2.5 metres. The floating hammerhead pontoon would have a width of 12.9 metres and a depth of 2.5 metres. The floats would be fibre concrete cased polystyrene filled floatation units. There are also 8 1 tonne mooring cleats proposed. Wood boards are proposed for the deck. The proposal includes a perimeter galvanised handrail (height of 1.1 metres). The freeboard distance would be 0.5 metres. There are two life ring stands to the east and west of the hammerhead pontoon.
- 3.1.8 The submitted Design and Access Statement states that, *'The former pontoon was a popular local attraction which was widely used by visitors and the local community to access the water of the River Crouch for various leisure activities (such as crabbing). In addition, the previous pontoon also served as a landing point for a foot passenger ferry which carries passengers back and forth across the river. The destruction of the former pontoon in 2022 resulted in the loss of a valuable community asset for the local area. Maldon District Council is therefore keen to reinstate the pontoon and restore public access to the waterfront.'*
- 3.1.9 The planning application is accompanied by the following supporting documents:
- Design and Access Statement
 - Preliminary Ecological Appraisal
 - Flood Risk Assessment
 - Proposed / Existing Block Plan
 - Proposed /Existing Elevation

- Site Location Plan
- Assembly / Installation of Walkway Pontoons

3.2 Conclusion

- 3.2.1 It is considered that the principle of development is acceptable, and no objections are raised in relation to the impact of the proposal on the character or appearance of the area (which is a Conservation Area) and the amenity of local residents, flood risk or nature conservation (subject to conditions imposed relating to ecology).

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2023 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
- 119 – 123 Making effective use of land
- 126 – 136 Achieving well designed places
- 184 – 202 Conserving and enhancing the historic environment

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Management
- E5 Tourism
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- N3 Open Space Sport and Leisure
- T2 Accessibility
- I1 Infrastructure and Services

4.3 Burnham-on-Crouch Neighbourhood Development Plan (7 September 2017)

- Policy EN.1 Flood Prevention
- Policy RI.1 Protection and Improvement of the Riverside
- Policy RI.2 Design Sensitivity of Riverside Developments

4.4 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)

- National Planning Policy Guidance (NPPG)
- Burnham-on-Crouch Neighbourhood Plan
- Essex Coast Recreation Disturbance Avoidance Mitigation Strategy (RAMS)

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 (TCPA 1990), and Paragraph 47 of the NPPF require that planning decisions are to be made in accordance with the Local Development Plan (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 The application site is situated outside of the defined development boundary for Burnham-on-Crouch and therefore policies of rural constraint apply. However, given that there has been a recent pontoon (destroyed in a storm in 2022) in an identical location and of similar design / appearance, the principle of development has been established and is accepted. Therefore, in assessing the current application the main considerations relate to design and appearance and the impact on the wider area.

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. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:
- “The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.*
- “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account local design standards, style guides in plans or supplementary planning documents”.*
- 5.2.2 This principle has been reflected in the LDP. The basis of policy D1 of the LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:
- Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
 - Height, size, scale, form, massing and proportion;*
 - Landscape setting, townscape setting and skylines;*

d) *Layout, orientation and density.*

- 5.2.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (MDDG) (2017).
- 5.2.4 In addition, policy H4 requires all development to be design led and to seek to optimise the use of land having regard amongst 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 surrounding area; and does not involve the loss of any important landscape, heritage features or ecology interests.
- 5.2.5 The proposed pontoon would be highly visible from the public realm and would utilise an existing access from the sea wall. There would not be any direct interference from the placement of the structure with other structures or jetties within the estuary. It is therefore considered acceptable in this regard.
- 5.2.6 The proposed layout, positioning and design of the pontoon would have similar characteristics to the previous pontoon. It would also be similar in character and appearance to other waterfront structures in the vicinity and therefore is not considered to be out of keeping with the other facilities in the area.
- 5.2.7 It is noted that the current proposal includes a handrail around the perimeter of the pontoon to 'provide greater safety for visitors' whereas the previous pontoon had only a central rail. The Design and Access Statement also states that to, *'ensure the pontoon is more robust in storm conditions, protected floats will be used and additional structure incorporated within the joints between floats. A strengthened hammerhead pontoon also mitigates against adverse weather conditions and damage from the foot passenger ferry'*.
- 5.2.8 The proposed external materials of the pontoon are appropriate to the locality. They are also similar in appearance to that of the previous pontoon and therefore compatible with the surroundings.

Heritage Impact

- 5.2.9 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the character or appearance of the conservation area. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Similarly, policy D3 of the LDP states that development proposals that affect heritage assets must preserve or enhance its special character, appearance, setting and any features and fabric of architectural or historic interest. Where a proposed development would cause less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 5.2.10 The site is situated partially within the designated Conservation Area for Burnham-on-Crouch. The Burnham-on-Crouch Conservation Area Review and Character Appraisal (2004) refers to the *'many significant features of marine activity' which remain along the quay, such as 'projecting wharfs, jetties, cranes, shell traps and even the formation of Priors dock' (page 13).*

5.2.11 The Specialist – Conservation and Heritage has been consulted and raised no objection stating that, *'the proposed replacement pontoon will cause no harm to the character or appearance of the Burnham-on-Crouch Conservation Area or to the setting or significance of any nearby heritage assets, including the grade II listed Royal Corinthian Yacht Club. The pontoon will be very similar in design to the previous pontoon which was destroyed by Storm Eunice in 2022'*.

5.2.12 In conclusion, it is considered that the development proposed would be in keeping with the character and appearance of the site and surrounding area, similar to the previous pontoon and would not detract from the character or appearance of the Conservation Area. The proposal accords with the Policy S1, D1, D3 and H4 of the LDP, MDDG 2017 and the NPPF.

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, outlooks, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by Section c07 of the MDDG (2017). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.

5.3.2 The nearest neighbouring residential properties are situated over 20 metres from the application site at The Quay and along Shore Road. Given the distance of separation, the nature of the proposal and the recent previous pontoon at the site (destroyed in storm of 2022), it is not considered that the development would represent an unneighbourly form of development or give arise to a demonstrable impact on the amenities of the occupiers of neighbouring properties.

5.3.3 No objections have been received from neighbouring properties.

5.3.4 The proposal is in accordance with Policy D1 of the LDP and the NPPF.

5.4 Accessibility

5.4.1 Policy T2 of the LDP aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide accessible environments which are inclusive for all sectors of society and increase opportunities for social interaction.

5.4.2 The NPPF refers in paragraph 110 (b) to, *'ensuring safe and suitable access to the site can be achieved for all users'*.

5.4.3 The proposed development would utilise the existing access to the site provided by a gate 'Ferry Gate'. This gate is owned and maintained by the Environment Agency. The submitted Design and Access Statement states that, *'The gate has a clear width of 2.5m and is split into two leaves (one wider than the other) which are connected via a hinge. Due to the size of the bankseat, the larger leaf cannot be fully opened so access is only granted via the smaller leaf. The proposal does not improve or alter the existing gates in any way'*.

5.4.4 A representation has been received from a member of the public concerned as to whether accessibility for individuals with limited mobility has been taken into consideration including, accessible ramp / lift, non-slip surfaces and handrails, accessible seating options and facilities.

- 5.4.5 The submitted plans propose a handrail around the perimeter of the pontoon. There is also an existing access bridge providing access to the pontoon. The applicants have confirmed that a non-slip surface will be used. The application proposes to reutilise the existing access bridge and gate, there is a steep gradient and narrow access point which restricts wheelchair users, particularly at low tide. There is also insufficient space on the walkway to provide seating. The applicants have indicated they are proposing to install signage relating to the pontoon, however, details of such have not been provided as part of this application.
- 5.4.6 The proposal does not incorporate existing / proposed car parking or access for vehicles.
- 5.4.7 The proposal is in accordance with Policy D1 of the LDP and the NPPF.

5.5 Flood Risk

- 5.5.1 Policy D5 of the LDP sets out the Council's approach to minimising flood risk. Policy S1 of the LDP requires that new development is either located away from high risk flood areas or is safe and resilient where it is not possible to avoid such areas.
- 5.5.2 The site is situated within Flood Zone 3b (functional flood plain).
- 5.5.3 A Flood Risk Assessment (FRA) (prepared by Evans Rivers and Coastal, January 2024) has been submitted as supporting documentation. The FRA concludes that, *'The proposed structure will rise and fall with the tide up to a height similar to the level of Shore Road (3.80 AOD). A warning and evacuation strategy has been developed within this assessment. It is proposed that the site operators register with the Agency's Flood Warning Direct and prepare a Business Flood Plan. It is considered that there is negligible risk of groundwater flooding at the site and there is a very low surface water flooding risk'*.
- 5.5.4 The proposed development would be classified as a *'water compatible development'* (as defined within Annex 3 of the NPPF). Therefore, this type of development is considered acceptable in this location.
- 5.5.5 The only immobile aspect of the development would be the five existing piles, all the other elements would rise and fall on the tide. Given, the previous development at the site, it is not considered that the development would materially affect tidal flow or the build-up of silt.
- 5.5.6 The Environment Agency was consulted on the application, however, at the time of drafting the Committee report a response had not been received. A verbal update will be provided at the meeting.
- 5.5.7 Subject to the response from the Environment Agency, the proposed development is considered to be in compliance with Policy D5 and S1 of the LDP and the NPPF.

5.6 Ecology and Biodiversity

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

- 5.6.3 Policy N1 of the LDP states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and / or isolation of existing or proposed green infrastructure. Policy N2 of the LDP states that, any development which could have an adverse impact on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.
- 5.6.4 The site is situated within the designated 'The Essex Estuaries (Special Area of Conservation (SAC)), Crouch and Roach Estuaries (Sites of Special Scientific Interest (SSSI)), Crouch and Roach Estuaries Mid Essex Coast Phase 3 (RAMSAR and Special Protection Area (SPA)) and Outer Thames Estuary (SPA)'.
- 5.6.5 A Preliminary Ecological Appraisal (James Blake Associates, January 2024) has been submitted as supporting documentation. The report concludes that, *'the proposed development is considered unlikely to be adversely detrimental to designated area, protected species or habitats. However, a number of considerations and enhancements are recommended with respect to overall biodiversity. It is recommended that any disturbance is undertaken within the nesting season, which is deemed to be from March to September. This is deemed necessary as it will create as little disturbance as possible, compared to winter periods when the estuarine mudflats will be abundant with wintering wildfowl and waders, including brent geese. It is recommended that retro fit timber add ons are fitted to the replacement pier metal poles and drilled with various sized holes. This would provide a micro habitat for a number of aquatic wildlife. Works should be undertaken during times of low tide and following an appropriate Construction Method Statement'*.
- 5.6.6 Natural England (NE) were consulted on the application and commented that, *'the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes'*.
- 5.6.7 The Council's Ecology Consultant was also consulted and raised no objection subject to a pre-commencement condition relating to submission of a construction Environmental Management Plan and a condition relating to securing the mitigation measures identified in the submitted Preliminary Ecological Appraisal (PEA).
- 5.6.8 A Habitats Regulations Assessment (HRA) – Screening Record has been completed by the Local Planning Authority (LPA), as the competent authority, and it is concluded that the proposal would not have a significant adverse impact on statutorily protected nature conservation sites or landscapes.
- 5.6.9 The proposed development will require a marine licence for all marine elements of the proposal, all works below Mean High Water Springs mark (MHW). The applicant would be required to contact the Marine Management Organisation (MMO) in the first instance to discuss the requirements of a marine licence.
- 5.6.10 The proposal accords with policies S1, N1 and N2 of the LDP and the NPPF subject to imposition of conditions.

6 **ANY RELEVANT SITE HISTORY**

- **17/03231/PREAPP** – Extension to Burnham-on-Crouch Town Pontoon Pre-application.
- **04/00546/FUL** – Siting of a pontoon attached to town steps safe operation of boat trips/ferry services from Burnham to Wallasea. Approved.

7 **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Burnham-on-Crouch Town Council.	No objection. The following comments were made: <ul style="list-style-type: none">• Additional life ring near sea wall; keep the central handrail to allow for crabbing etc; appropriate risk signage.	Noted.

7.2 **Statutory Consultees and Other Organisations**

Name of External Consultee	Comment	Officer Response
Natural England	No objection.	Noted.
Crouch Harbour Authority.	No objection. The following comments were made: <ul style="list-style-type: none">• question whether handrails down both outer edges of pontoon are safer than one central rail; vessels should be discouraged from mooring on hammerhead; overnight mooring of vessels should be forbidden.	Noted.
Burnham-on-Crouch United Charity	No objection.	Noted.
Marine Management Organisation	Comment that a licence from the Marine Management Organisation would be required.	Noted.
Environment Agency	No response received.	Noted.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Ecology Consultant – Place Services	No objection subject to securing biodiversity mitigation and enhancement measures.	Noted.
River Baliff	No objection.	Noted.
Specialist Heritage and Conservation	No objection.	Noted.

7.4 Representations received from Interested Parties.

- 7.4.1 One letter of comment has been received in relation to the proposed development raising the following matters:

Neutral Comment	Officer Response
Concern regarding accessibility for individuals with limited mobility. The replacement pontoon should take account of legal requirements for equal access for all members of community including those with limited mobility. It is not clear if proposal includes accessible ramp/lift, non-slip surfaces and handrails, accessible seating options and facilities.	Noted.

8 **PROPOSED CONDITIONS**

Pre-Commencement Condition:

A pre-commencement condition is recommended and the applicant / agent has been written to advise of the intention to use this condition. If no response is received or no objection raised to the conditions within 10 days, the Local Planning Authority is able to impose the suggested conditions. The recommended below is made on the assumption that agreement is gained.

Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in accordance with following approved plans and documents:
 - 117-Nex-00-XX-DR A – 102 REV P1 Pontoon Site Location Plan – existing
 - 117-Nex-00-XX-DR A – 103 REV P1 Pontoon Block Plan – existing
 - 117-Nex-00-XX-DR A – 251 REV P1 Pontoon Site Elevation – proposed
 - 117-Nex-00-XX-DR A – 252 REV P1 Pontoon Elevations – proposed
 - 117-Nex-00-XX-DR A – 120 REV P1 Pontoon Plan – existing
 - 117-Nex-00-XX-DR A – 121 REV P1 Detail Plan – existing

- 117-Nex-00-XX-DR A – 230 REV P1 Pontoon Plan – proposed
 - 117-Nex-00-XX-DR A – 231 REV P1 Pontoon Detail Plan – proposed
- REASON To ensure that the development is carried out in accordance with the details as approved.
3. The materials used in the construction of the development hereby approved shall be as stated within plans no. 117-Nex-00-XX-DR A – 251 REV P1, 117-Nex-00-XX-DR A – 252 REV P1, 117-Nex-00-XX-DR A – 230 REV P1, 117-Nex-00-XX-DR A – 231 REV P1 and shall be retained as such in perpetuity. REASON To ensure the external appearance of the development is appropriate to the locality in accordance with policy D1 of the approved Maldon District Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.
 4. The public's rights and ease of passage over public footpath 11 (Burnham-on-Crouch) shall be maintained free and unobstructed at all times
REASON To protect the amenity of the area, in accordance with Policies D1 and T2 of the Maldon District Local Development Plan and the NPPF.
 5. Prior to commencement a construction environmental management plan (CEMP) shall be submitted to and approved in writing by the local planning authority, in line with the Preliminary Ecological Appraisal (James Blake Associates, January 2024). The CEMP shall include the following:
 - a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.

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

REASON To conserve Protected and Priority species and allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species), in accordance with Policies S8, D1, N1 and N2 of the approved Maldon District Local Development Plan and the NPPF.

6. Prior to construction a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority, in line with the Preliminary Ecological Appraisal (James Blake Associates, January 2024).
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 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 prior to occupation and shall be retained in that manner thereafter.

REASON To conserve Protected and Priority species and allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species), in accordance with Policies S8, D1, N1 and N2 of the approved Maldon District Local Development Plan and the NPPF.

7. The surface of the access way shall be finished in a non-slip material.

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

INFORMATIVES

- 1 The proposed development will require a marine licence for all marine elements of the works, all works below Mean High Water (MHW). The applicant should contact the Marine Management Organisation (MMO) in the first instance to discuss the requirements of a marine licence.

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