



**REPORT of
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

to

NORTH WESTERN AREA PLANNING COMMITTEE

6 AUGUST 2018

Application Number	DET/MAL/18/05080
Location	Manor Farm The Avenue North Fambridge Essex
Proposal	Compliance with conditions application for application OUT/MAL/14/01018 (Outline planning application for up to 30 dwellings) Condition 18. Investigation and Risk Assessment
Applicant	David Wilson Homes - BDW Eastern Counties
Agent	N/A
Target Decision Date	13.07.2018
Case Officer	Yee Cheung
Parish	NORTH FAMBRIDGE
Reason for Referral to the Committee / Council	The Discharge of Condition application is presented to Members of the North Western Ara Planning Committee at the discretion of the Director of Planning and Regulatory Services

1. RECOMMENDATION

The recommendation is to discharge Condition 18 as set out in Section 8 of the report.

2. SITE MAP

Please see overleaf.

Manor Farm, The Avenue, North Fambridge

DET/MAL/18/05080



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Maldon District Council 100018588 2014



Scale: 1:4,000

Organisation: Maldon District Council

Department: Department

Comments: NW Committee 18/05080/DET

Date: 24/07/2018

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MSA Number: 100018588

3. **SUMMARY**

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

3.1.1 The application site comprises farm buildings which have been unused for a number of years as part of an agricultural holding and an area of grassland. Adjoining the site, but outside of the application area is the Manor Farm farmhouse which is to be retained in residential use. Adjoining the farmhouse also on The Avenue frontage is a brick built former stable block which is currently used for storage ancillary to the dwelling. The remaining buildings lie behind the road frontage and are clustered along the western boundary of the site. These are agricultural style buildings which are used for the storage of a variety of materials and machinery, including hay. There are also areas of concrete hardstanding. The total site area is 1.25 hectares.

3.1.2 The site lies to the south of The Avenue which is the main residential street in the southern part of North Fambridge. The Avenue is residential in character with detached dwellings set back from the road on large plots. To the west of the site are properties in Brabant Road which are also detached on large plots. These properties typically have rear gardens in the order of 40 metres and there is mature vegetation along the common boundary with the application site. The eastern boundary of the site comprises a mature hedgerow and the southern boundary is a low broken hedgerow.

3.1.3 In the approved Local Development Plan (LDP), the application site is within the defined settlement boundary of North Fambridge. To the south is the Crouch and Roach Estuaries Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI). Blue House Farm which is a Local Nature Reserve run by the Essex Wildlife Trust lies to the east beyond Blue House Farm Chase. The application site lies in Flood Zone 1.

3.1.4 Outline planning permission with all matters reserved was granted in 2016 (**OUT/MAL/14/01018** dated 11 January 2016) for the proposal of up to 30 dwellings to be erected on this site. The outline planning application was granted subject to an Unilateral Undertaking Legal Agreement to a secure School Transport Contribution and 30% of affordable housing. It is important to note that the principle of development on this site has been established by virtue of outline planning application **OUT/MAL/14/01018** approved by the Council.

3.1.5 At the North Western Area Planning Committee on 14 May 2018, the Discharge of Conditions application **DET/MAL/17/05142** was presented to Members at the discretion of Director of Planning & Regulatory Services and Condition 18 was included amongst the conditions to be discharged. Condition 18 imposed on **OUT/MAL/14/01018** was considered by Members in relation to site investigation and risk assessment (reference: **DET/MAL/17/05142**). At the time, no details were provided in relation to any investigation and risk assessment of the site for the Council to be able to assess whether there were any contaminant on site. As such, the Council was unable to discharge Condition 18 imposed on outline planning application **OUT/MAL/14/01018** under the **DET/MAL/17/05142** application.

3.1.6 Due to reasons of consistency following the previous Discharge of Conditions application **DET/MAL/17/05142**, consultation with the Director of Planning &

Regulatory Services was held and it was agreed that the Discharge of Condition application **DET/MAL/18/05080** for Condition 18 at Manor Farm was to be presented to Members at the North Western Area Planning Committee.

3.2 Conclusion

3.2.1 Based on the details submitted for the Discharge of Conditions application, the Council has considered that the following conditions can be discharged:-

Conditions imposed on outline planning application OUT/MAL/14/01018	Discharged?
18	Yes

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2018 including paragraphs:

- 178 Contamination

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

- Policy S1 Sustainable Development
- Policy D1 Design Quality and Built Environment
- Policy D2 Climate Change & Environmental Impact of New Development

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Guidance (NPPG)
- National Planning Policy Framework (NPPF)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 Outline planning permission **OUT/MAL/14/01018** was approved on 11 January 2016 with all matters reserved for up to 30 dwellings. Accompanied with the outline planning permission was a signed and dated Section 106 legal agreement to provide contributions as listed in Section 3.1.4 of the officer report.

5.1.2 As part of the outline planning application approval **OUT/MAL/14/01018**, 30 planning conditions were imposed. Out of the 30 conditions, 16 conditions imposed on **OUT/MAL/14/01018** were pre-commencement planning conditions (Conditions: 4, 5, 6, 7, 8, 11, 12, 15, 16, 18, 19, 22, 25, 26, 27 and 29), however the Applicant is seeking to discharge 1 of the planning conditions imposed under this current **DET/MAL/18/05080** only (Condition: 18). It is important to note that Conditions 4, 5, 8, 25, 26, and 27 of **OUT/MAL/14/01018** were approved under

DET/MAL/17/05142. The outstanding conditions in relation to on-site Construction Management Plan (C.12); maintenance of the surface water drainage system (C.15); foul water strategy (C.16); and wastewater strategy (C.29) are being considered under DET/MAL/18/05092.

5.2 Condition 18 of OUT/MAL/14/01018

5.2.1 Condition 18 states:

'Notwithstanding the details submitted with this application, no development shall commence until an investigation and risk assessment has been submitted to and Agenda Item no. 6 approved in writing by the Local Planning Authority. The risk assessment shall assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include: (i) a survey of extent, scale and nature of contamination; (ii) an assessment of the potential risks to:

- *Human health,*
- *Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, Adjoining land,*
- *Groundwaters and surface waters,*
- *Ecological systems*
- *Archaeological sites and ancient monuments;*
- *(iii) An appraisal of remedial options, and proposal of the preferred option(s).*

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The development hereby permitted shall not commence until the measures set out in the approved report have been implemented.'

5.2.2 To discharge Condition 18, the following documents were submitted to the Council for assessment:-

- Drawings: EB/J-B1226.02 (R01) Geo-Environmental Investigation Report dated October 2017
- Location Plan / Exploratory Hole Plan and Records (Appendix D) / J-B1226.02 Rev A dated Sept 2017
- Detailed Layout Plan: 746.202.04 dated 07.07.2017
- Appendix C Environmental Database Report
- Appendix B Historical Maps
- Appendix A Site Photographs

5.2.3 In a letter dated 3 May 2018 prepared by Opus Ltd, it states that the application site was the subject of a Geo-Environmental Investigation Report by Opus, referenced J-B1226.02 R01A and dated October 2017. Although three monitoring wells were installed during the previous investigation, the wells in WS3 and WS5 were both destroyed by the farmer and by archaeological works that were undertaken after the ground investigation. Ground gas and groundwater levels were therefore only

recorded in WS1 on four occasions in order to provide data for a preliminary ground gas assessment.

5.2.4 More robust assessment of the ground-gas conditions was undertaken including the replacement of lost / damaged wells with additional monitoring to fully satisfy planning condition 18.

5.2.5 Additional Investigation

5.2.5.1 Four window sample boreholes (WS8-WS11) were advanced across the site on 10th April 2018. The sample boreholes were positioned in order to provide sufficient coverage of the site and to enable the construction of monitoring installations.

5.2.5.2 The approximate locations of the additional boreholes are shown on the appended Exploratory Hole Location Plan (Drawing No. J-B1226.00/G002 Revision A).

5.2.5.3 Combined ground gas and groundwater monitoring wells were installed in the four window sample boreholes WS8 to WS11. The wells were fitted with a gas tap assembly at ground level suitable for connection to proprietary gas monitoring equipment and a lockable cover at ground level to provide protection.

5.2.6 Monitoring

5.2.6.1 Ground gas and groundwater monitoring has been undertaken in the four monitoring wells on three occasions in order to provide data for a ground gas assessment in accordance with the guidance set out in CIRIA665. The results have been included in this Discharge of Condition application dated 30 August 2017; 6 September 2017; 13 September 2017; 19 September 2017; 19 April 2018; 25 April 2018; and 2 May 2018 (Ground Gas Monitoring Results).

5.2.7 Strata Observations

5.2.7.1 Topsoil was encountered at the surface in WS8 and WS9 advanced within the field areas towards the south and east of the site, generally comprising silty sandy slightly gravelly clay.

5.2.7.2 Made Ground was encountered at the surface in WS10 and WS11. Concrete was recorded at the surface in WS10 and WS11 and was underlain by firm greyish brown sandy clay with rare coarse brick gravel in WS10 and soft to firm clay with occasional broken brick and pockets of broken bricks in WS11.

5.2.7.3 Topsoil / Made Ground was underlain by firm orange/brown variably silty and gravelly clay with lenses of fine orange sand. The gravel encountered generally comprised fine to coarse, sub rounded flint and sandstone. This was underlain by firm to stiff brown mottled blueish grey silty clay with occasional pockets of limestone/sandstone gravel and lenses of fine orange sand.

5.2.7.4 Groundwater was struck locally in WS10 whilst all other investigation locations were dry.

5.2.8 Ground-Gas Monitoring Results

5.2.8.1 Gas monitoring results have been compared to guidance presented in CIRIA Report C665, Assessing Risks Posed by Hazardous Ground Gases to Buildings, 2007.

5.2.8.2 CIRIA Report C665 indicates that ground gas protection measures may be necessary in new buildings on sites where methane concentrations exceed a threshold value of 1% v/v and/or where carbon dioxide concentrations exceed a threshold value of 5% v/v. The gas flow rate is also considered in the required level of protection.

5.2.8.3 The results of the gas monitoring completed as part of this assessment are summarised as follows;

- Carbon dioxide recorded at concentrations of between <0.1% and 1.0% v/v.
- Carbon monoxide not recorded above the detection limit of the instrument.
- Hydrogen sulphide not recorded above the detection limit of the instrument.
- Methane not recorded above the detection limit of the instrument.
- Maximum flow rates of 0.1 l/hr.

5.2.9 Ground-Gas Risk Assessment

5.2.9.1 In assessing the risk from ground gases, consideration has been given to the history and environmental setting of the site and the ground conditions encountered. Taking into account the presence of albeit limited thicknesses of Made Ground and the absence of registered landfills in the area the gas risk is assessed to be very low for the proposed development.

5.2.9.2 The assessment is in accordance with CIRIA Report C665 to determine the required level of carbon dioxide protection measures for the proposed future site development. The submitted report recommended that further monitoring would not be considered necessary and ground gas protection measures would not be required for the proposed development.

5.2.10 Council's Environmental Health Services Response:-

5.2.10.1 The Environmental Health Services (EHS, 13 June 2018) has assessed the report from Opus Ltd dated 3 May 2018 and advised on the following:-

'This describes an additional installation into ground gases at the site. Gas wells were reinstated after being destroyed as indicated in the previous report. The results of the gas monitoring indicate that the risk from ground gas is low and no remedial measures are required.'

'Whilst the borehole logs only indicate groundwater was found in WS10 the gas monitoring results in Appendix B indicate groundwater levels in all boreholes. There were no details of any analysis as EHS were expecting as the Ground Investigation Report states that the secondary aquifer is a receptor in the conceptual model'

5.2.10.2 Therefore it was requested that results of the groundwater analysis and risk assessment monitoring or justification was submitted before EHS was able to comment further.

5.2.10.3 In response to the above comments by EHS, Opus Ltd submitted additional information to address the concerns raised in a letter correspondence dated 18 June 2018. The following information was submitted:-

Desk-based Information

'The published geological information indicates that the site is underlain by Head Deposits (Secondary undifferentiated aquifer) and the London Clay Formation (Unproductive strata). Unproductive strata are defined as formations with low permeability that have negligible significance for water supply or river base flow, whereas Secondary undifferentiated aquifer indicates that the formation is highly variable and it is has not been possible to categorise as either Secondary Aquifer A or B with more detail. The site is not located within a groundwater Source Protection Zone nor are there any groundwater abstractions within 1km of the site. The nearest surface water feature (a drainage feature) is located 75m south-east of the site and there are no surface water abstractions within 1km of the site. It is therefore considered that the site is located within an area of very low sensitivity with respect to controlled waters'.

'The preliminary conceptual site model (Ref. Opus Report No. J-B1226.02 R01A dated March 2018) identified a low risk to controlled waters (Secondary undifferentiated aquifer) from on-site Made Ground, that potentially contained metals, PAH, TPH, phenol, via migration through permeable strata'.

Ground Conditions

Topsoil was encountered across the majority of the site.

Made Ground was encountered beneath the northern part of the site (covered with farm buildings). Visual and olfactory evidence of hydrocarbon impact was observed in TP1. No visual or olfactory evidence of contamination was observed at any other investigation location.

Topsoil/Made Ground was underlain by firm orange/brown variably silty and gravelly clay (also known as Head Deposits) overlying firm to stiff brown mottled blueish grey silty clay (also known as London Clay Formation).

Groundwater was encountered at one location only (WS10) during drilling/excavation.

Subsequent groundwater monitoring indicated standing water in the monitoring wells at relatively shallow depths. This is likely to be associated with surface water and not ground water.

No widespread or significant contamination was revealed by the laboratory geochemical testing undertaken on soil samples obtained during the site investigation works. There is no ongoing source of potential contamination associated with the site.

Further investigation has concluded that the site does not identify a significant source of contaminants or a viable pathway for the contamination to impact a controlled waters receptor and; therefore, there is no pollutant linkage. On the basis of the

above, the risks to controlled waters associated with the site are negligible and no further analysis or assessment of groundwater would be considered necessary.

5.2.11 Council's Environmental Health Services Response:-

5.2.11.1 The EHS (dated 25 June 2018) has re-assessed the additional information submitted by Opus Ltd dated 18 June 2018 and has advised that the additional information submitted stated that the secondary aquifer is unproductive and it is likely that that found in monitoring wells was from surface runoff. There is no other ongoing contamination source. From this information EHS is satisfied with the contractors risk assessment.

5.2.11.2 The original investigation report where total petroleum hydrocarbons were found above acceptable limits and asbestos, the report recommends further investigation after the demolition of structures by specialist contractors in order to fully assess the risks of the site and design subsequent remedial measures. EHS agrees with this approach.

5.3 Conclusion

5.3.1 In this respect, the submitted details accord with Condition 18 of **OUT/MAL/14/01018** and is therefore recommended the condition to be discharged.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/02/00951** - Proposed erection of one detached dwelling house. Approved: 30.12.2002
- **11/00753/AGR** - Construction of farm track. Prior Approval Not Required: 13.09.2011
- **OUT/MAL/13/00473** - Outline planning application for up to 30 dwellings. Refused: 11 February 2014
- **OUT/MAL/14/01018** - Outline planning application for up to 30 dwellings. Approved: 11.01.2016
- **RES/MAL/17/00766** - Reserved matters application for the approval of access, appearance, landscaping, layout and scale on approved planning application OUT/MAL/14/01018 (Outline planning application for up to 30 dwellings). Refused: 04.04.2018
- **RES/MAL/18/00558** - Reserved matters application for the approval of access, appearance, landscaping, layout and scale on approved planning application OUT/MAL/14/01018 (Outline planning application for up to 30 dwellings). Approved: 17.07.2018

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
N/A	N/A	N/A

7.2 Statutory Consultees and Other Organisations (*summarised*)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Archaeology	No comment to make on this application	Noted

7.3 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Coast and Countryside Officer	No comment to make on this application	Noted

7.4 Representations received from Interested Parties (*summarised*)

7.4.1 No letters of representation received.

8. **RECOMMENDATION**

That the following condition be **DISCHARGED**:

Conditions imposed on outline planning application OUT/MAL/14/01018	Discharged?
18	Yes