



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

to
**NORTH WESTERN AREA PLANNING COMMITTEE
6 AUGUST 2018**

Application Number	DET/MAL/18/05092
Location	Manor Farm The Avenue North Fambridge Essex
Proposal	Compliance with conditions notification OUT/MAL/14/01018 (Outline planning application for up to 30 dwellings) Condition 12. On-site construction management plan Condition 15. Responsibility of maintenance of surface water drainage system. Condition 16. Foul water strategy. Condition 29. Wastewater strategy
Applicant	David Wilson Homes - C/O Agent
Agent	N/A
Target Decision Date	14 August 2018
Case Officer	Yee Cheung
Parish	NORTH FAMBRIDGE
Reason for Referral to the Committee / Council	At the Director of Planning & Regulatory Services' discretion for consistency reasons

1. RECOMMENDATION

The recommendation is to discharge the following conditions as set out in Section 8 of the report.

2. SITE MAP

Please see overleaf.

Manor Farm, The Avenue, North Fambridge
DET/MAL/18/05092



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 Maldon District Council 100018588 2014



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Scale: 1:4,000

Organisation: Maldon District Council

Department: Department

Comments: NW Committee 18/05092/DET

Date: 24/07/2018

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, 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 secure a 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 Conditions 12, 15, 16, and 29 were included amongst the conditions to be discharged. Conditions 12, 15, 16, and 29 imposed on **OUT/MAL/14/01018** were considered by Members at the meeting (reference: **DET/MAL/17/05142**). In terms of the Construction Management Plan, Members were concerned in relation to the access to the application site 'Manor Farm' via Crouch Road. With regard to the responsibility of maintenance of surface water drainage system (C.15), Foul water strategy (C.16), and Wastewater strategy (C.29), Members were not satisfied that the submitted details would resolve the current issues (surface / foul water system), and that it would not address the potential increase in waste disposal.

- 3.1.6 As such, the Council was unable to discharge Conditions 12, 15, 16, and 29 imposed on the outline planning application **OUT/MAL/14/01018** that was being considered under the **DET/MAL/17/05142** application.
- 3.1.7 Having considered the scale, nature and sensitivity of the site and more importantly for the reason 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/18/05092** for Conditions 12, 15, 16, and 29 at Manor Farm was to be presented to Members at the North Western Area Planning Committee.
- 3.1.8 Additional clarification has been provided by Anglian Water in respect of this matter and it is therefore considered appropriate to fully re-assess the impact of the proposed development in terms of drainage.

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?
12	No
15	Yes
16	Yes
29	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:

- 7-8, 14, 17, 127, 165, 170 and 187

4.2 Maldon District Local Development Plan approved by the Secretary of State on 21 July 2017

- S1 – Sustainable Development.
- D1 – Design and Quality and Built Environment.
- D2 – Climate Change and Environmental Impact of New Development.
- D5 – Flood Risk and Coastal Management.

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 4 of the planning conditions imposed under this current **DET/MAL/18/05092** only (Conditions: 12, 15, 16 and 29). These planning conditions are listed below and summarised in Section 3.2.1 of this report.
- 5.1.3 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 other outstanding condition in relation to this site is Condition 18 relating to ‘Investigation and Risk Assessment’ is currently being considered under **DET/MAL/18/05080**.

5.2 Condition 12 of OUT/MAL/14/01018

- 5.2.1 Condition 12 states:

‘No development shall commence until details have been submitted to and approved in writing by the Local Planning Authority of an on-site Construction Management Plan detailing:

- phasing of the development;*
- times during which all construction activities will take place;*
- measures to prevent the tracking out of mud and debris onto the highway;*
- measures to manage noise and dust emissions during construction;*
- details of parking areas for construction vehicles and construction workers vehicles;*
- protective fencing to secure the site.*

All approved measures shall be put in place prior to development commencing on site and all subsequent construction of the development shall be implemented in accordance with the approved details’

- 5.2.2 For Condition 12, the Applicant has submitted an On-Site Construction Management - Revision D, which includes plans titled “Crouch Road Access Plan” and “Construction Management Layout Plan.”
- 5.2.3 The submitted Construction Management Layout Plan (Drawing No: BDW_2A_SP_001 Revision D) shows the construction sequence for Area 1 (to the south of the site), Areas 2 and 3 to the east and west, and Area 4 (to the north). This construction sequence would begin from the south and gradually moving northwards keeping traffic movements to a minimum. A main site compound will be located on the Land West of Fambridge Road site (planning reference: **RES/MAL/17/00776** and

DET/MAL/17/05154) with satellite welfare being provided to the Manor Farm site. Within the Manor Farm site, there will be a satellite compound and a material storage area which will be located temporarily to the north east of site on the proposed public open space.

- 5.2.4 The previously submitted construction management plans indicated that construction traffic of all types would use Crouch Road to connect the Land West of Fambridge Road and Manor Farm sites. It was therefore a concern of the Council that vehicle movements and the movement of materials would detract from the amenities of the residents of Crouch Road. The amended details demonstrate that Crouch Road will be used as a pedestrian access route only and will be continue to be able to be used by residents for access. Fambridge Road and The Avenue will be the route used for construction traffic.
- 5.2.5 It is considered that this has addressed the previous concerns raised by the Council. In finding this acceptable, it should be noted that this does not convey any rights to utilise Crouch Road and if the permission of others is needed, this should be sought. If this is not subsequently provided and therefore Crouch Road is not able to be used, all movements would be likely to be required to use Fambridge Road and The Avenue, which would be acceptable, or the applicant would be required to re-discharge the condition.
- 5.2.6 In all other respects, the submitted Construction Management Plan is considered to be acceptable. The working hours stated are appropriate, there are measures proposed to prevent mud entering the highway, suitable measures proposed to control and limit noise and dust pollution and a proposal to provide security fencing which is considered satisfactory.
- 5.2.7 Based on the CMP submitted, it is considered that the details are satisfactory and Condition 12 of the outline planning application **OUT/MAL/14/01018** can therefore be discharged.

5.3 Condition 15 of OUT/MAL/14/01018

- 5.3.1 Condition 15 states:

'No development shall commence until details of who shall be responsible for the maintenance of the surface water drainage system in perpetuity, have been submitted to and approved in writing by the Local Planning Authority. The management of the surface water drainage system shall accord with the approved details thereafter'

- 5.3.2 As part of the maintenance of the surface water drainage system, the Applicant has submitted the following information to the Council for consideration:-
- SuDS Management – Manor Farm
 - 132915-R4 (0) Drainage Statement Site B
 - 132915-R6 (00) SuDs Calculations Site B

5.3.3 In the SuDS Management – Manor Farm submitted by the Applicant it states that:-

Surface Water Strategy

‘As part of the planning permission for the development at Manor Farm, North Fambridge a surface water drainage strategy is to be progressed based on sustainable drainage principles.’

‘The surface water drainage strategy is to be produced to cater for surface water run off generated up to and including the one in 100 year storm event.’

‘The surface water strategy consists of permeable paving to areas of hard standing which includes roads and driveways. Storm water runoff from dwellings will be drained via cellular soakaway tanks where infiltrations is feasible.’

‘A positive connection will be made to the existing surface water network with a flow control system in place to limit the peak flows.’

‘Any surface water that cannot exit the site in storm events will be attenuated on site via attenuation basins within the public open spaces.’

Surface Water Management

‘Highway on site is not to be offered for adoption and will remain private. The roads are to be constructed using permeable paving which is to be maintained by a private management company once works have been completed and handed over. At this early stage of the project it cannot be confirmed who the management company will be.’

‘The main surface water piped network will be run within the private highway on site and be offered to Anglian Water for adoption under a Section 104. The drainage will be built to the standards required within Sewers for Adoption 6th Edition and will be run within as easement ensuing full access is maintained at all times for Anglian Water Services Ltd. All maintenance for these elements of the surface water system will be the responsibility of David Wilson Homes until such times as the network is adopted after which all maintenance obligations will transfer to Anglian Water.’

‘The subsequent infiltration tanks and attenuation basins within the public open space areas will be transferred to the private management company along with relevant maintenance obligations.’

5.3.4 Essex County Council (Lead Local Flood Authority (LLFA)) has been consulted however no formal response has been received regarding to this current Discharge of Condition application. It is important to note that LLFA was consulted previously on Discharge of Condition application **DET/MAL/17/05142** and having assessed the submitted above documents which accompanied that planning application, LLFA had raised no objection in relation to the principle of the maintenance of the surface water drainage system. Having regard to the additional advice that has been received from Anglian Water and the advice that is expected to be provided at the committee meeting, it is expected that the advice of the statutory consultees will be able to be

afforded more weight and as such it is considered that there will be grounds to enable the discharge of the condition.

- 5.3.5 Condition 15 of outline planning application **OUT/MAL/14/01018** can therefore be discharged.

5.4 Condition 16 of OUT/MAL/14/01018

- 5.4.1 Condition 16 states:

'No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details and retained as such thereafter'

- 5.4.2 Condition 16 in relation to foul water strategy was recommended by Anglian Water Services (AWS) in the 2014 outline planning application. Condition 16 is caveated by Condition 17 which reads *'Pursuant to condition 16, no dwelling hereby approved, or approved as part of the reserved matters referred to in condition 1 of this permission, shall be occupied until the foul water strategy has been carried out in complete accordance with the approved details'*.

- 5.4.3 For Condition 16, the Applicant has submitted the following documents to the Council for consideration:-

- 302-5 P4 Site Drainage
- 132915-R4 (0) Drainage Statement Site B
- 132915-R6 (00) SuDs Calculations Site B

- 5.4.4 Based on the above documents submitted by the Applicant, AWS (**APPENDIX 1** dated 11 July 2018) has provided the following comment:-

The purpose of the conditions that we request is to ensure that additional flows do not have a detrimental impact on existing network operational performance.

The analysis has been carried out to provide a drainage strategy which has enabled us to recommend discharge of the following conditions.

Anglian Water Services has an obligation, under Section 98 of the Water Industry Act 1991, to provide a new sewer from the existing sewer network, upon receipt of a sewer requisition. Where it is identified that flows from the new sewer will cause detriment to the existing sewerage network AWS can recover a proportion of the reasonable costs incurred in providing mitigation by way of further sewerage works in consequence of the sewer requisition. Consequential sewers provided in this way are limited in the following ways:

- 1- They may only remove any additional operational risk to the sewerage network caused by the provision of the new sewer, and not more: in other words they cannot provide betterment of said network.*

- 2- *They may not extend to sewerage works intended to rectify an existing deficit in the system.
This is because they are provided purely in consequence of the requisitioned sewer.*
- 3- *It is only sewerage works that may be provided and not treatment facilities. This is because the Act only allows for the provision of a 'sewer' then the developer cannot be held liable for costs associated with providing additional capacity at Water Recycling Centre (WRC). The limit of this statutory obligation has been tested.*

Alternatively, if no new sewer is required (and therefore no new requisition made), a developer may simply seek a connection to the existing sewerage network, thus avoiding the sewerage undertaker's ability to provide necessary consequential works at the developer's cost. In these cases, sewerage undertakers generally seek planning conditions to achieve the same effect as the requisition process. Accordingly, the planning conditions we request in respect of an acceptable sewer network are operated to no greater effect than the requisition process; in other words it is operated subject to the same limitations.

- 5.4.5 AWS has carried out detailed modelling which has confirmed that the connection of flows from this development has no significant impact on the performance of the foul water sewerage system, therefore the foul water drainage conditions in respect of this site can be discharged.
- 5.4.6 It is concluded that AWS is satisfied that the strategy as submitted is effective in dealing with the proposed foul flows from the development. The strategy submitted has drawn on extensive modelling and analysis which has concluded that the development has no significant impact on the foul network performance. Therefore it is recommended that Condition 16 of outline planning application **OUT/MAL/14/01018** can be discharged in full.
- 5.4.7 The Environment Agency (EA) has assessed the information that has been submitted (Drainage Statement Site B prepared by RSK) which has not been amended since the previous application and covers both surface water and foul water drainage. In their consultation response dated 11 October 2017 (reference: AE/2017/122083/01-L01) EA note that paragraph 2.2 'Foul Drainage' makes reference to the Anglian Water Development Impact Assessment (DIA) carried out following the granting of outline permission. The DIA advises the impact could be mitigated by providing storage capacity on site at the nearby Avenue Pumping Station. Paragraph 3.1 'Mitigation Works' goes on to describe in more detail the proposed arrangements for dealing with foul water from this development site. In the light of the findings of the DIA and the proposed mitigation works, which would appear to provide an operational solution, the EA has advised within their letter dated 06 February 2018 (included at **APPENDIX 2**) that the aspect that aspect of condition 16 that requires discharge prior to the commencement of development can be discharged.

5.5 Condition 29 of OUT/MAL/14/01018

5.5.1 Condition 29 states:

'No development shall commence until a detailed wastewater strategy has been submitted to and approved in writing by the local planning authority. The development shall be carried out in complete accordance with the approved details and retained as such thereafter'

5.5.2 Condition 29 in relation to wastewater strategy was recommended by Anglian Water Services (AWS) in the 2014 outline planning application. Condition 29 is caveated by Condition 30 which reads *'pursuant to condition 29 above, no dwelling hereby approved, or approved as part of the reserved matters referred to in condition 1 of this permission, shall be occupied until the wastewater strategy has been carried out in complete accordance with the approved details'*.

5.5.3 For Condition 29, the Applicant has submitted the following documents to the Council for consideration:-

- 132915-R4 (0) – Drainage Statement Site B
- 302-5 P4 Site Drainage

5.5.4 Based on the above document submitted, it has been concluded by the Applicant that the Drainage Statement has demonstrated that a robust foul drainage impact mitigation strategy has been agreed with the Anglian Water, which is the drainage authority responsible for the conveyance and treatment of wastewater flows. This strategy will include off-site storage and a real time control system to ensure that there will be no increase in foul sewer flood risk due to the development.

5.5.5 The Applicant acknowledges that the mitigation scheme must be implemented before any new properties are occupied. In addition, a sustainable surface water drainage strategy has been agreed in principle with the Lead Local Flood Authority (LLFA, Essex County Council) and the Environment Agency. This drainage strategy will reduce the pre-development risk of flooding to the roads and downstream properties by restricting the post-development discharge to the average annual flow rate and by removing the blockage from the existing culver.

5.5.6 The Environment Agency has noted that this wastewater strategy condition was recommended by Anglian Water Services and therefore expects this to take into account the permitted capacity position at Latchingdon treatment works. As stated above Condition 29 is caveated by Condition 30 which requires physical works to have been carried out and being operational prior to the dwellings being occupied.

5.5.7 Anglian Water Services (AWS) has assessed the information submitted by the Applicant. In their response dated 11 July 2018 (**APPENDIX 1**), AWS is aware of the concerns from both residents and the Parish Council regarding localised flooding and impact of new development on Latchingdon Water Recycling Centre (WRC).

5.5.8 The public sewerage network serving North Fambridge is intended for the drainage of domestic foul water only, for which it does have sufficient capacity. The existing flood risk involving the public foul water sewerage and the potential dry-weather flow exceedance at Latchingdon WRC are related to surface water flows entering the foul

sewerage network at many points via direct connections, overland flows and infiltration.

- 5.5.9 AWS has previously worked with the Environment Agency and Essex County Council in their role as both lead local flood and highways authority, is continuing to identify potential measures to address the lack of effective surface water drainage infrastructure in North Fambridge.
- 5.5.10 It is important to note that Section 98 of The Water Industry Act 1991 states that AWS cannot require a developer to provide betterment of the existing network, nor can we require them to provide WRC upgrades. Any infrastructure improvements at Latchingdon WRC will be planned and provided by Anglian Water, and will work with the Environment Agency to ensure investment planning happens at the appropriate time.
- 5.5.11 Based on the information submitted, it is concluded that AWS is satisfied that the strategy as submitted is effective in dealing with the proposed foul flows from the development. AWS will plan and invest accordingly in WRC and it is not for the developer to make provision for this. Therefore AWS recommends the discharge of Condition 29 imposed on outline planning application **OUT/MAL/14/01018** in full.

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
North Fambridge Parish Council	<ul style="list-style-type: none">Concerns regarding the sewerage and surface water.Same set of documents are being resubmitted with this application with very little new information from the developer.Crouch Road is a private road and is not in the ownership of the developers. Does not address concerns raised by existing residential properties adjacent to the site	Noted in the officer report

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
ECC Highway Authority	See pervious comment under DET/MAL/17/05142 dated 10 October 2017	Noted. In the email correspondence dated 10 October 2017, Highway commented that no objection to the proposal.
ECC Sustainable Drainage Systems (SUDs) (LLFA)	No response received at the time of writing this report. Any comments received will be reported on the Members Update.	The LLFA was consulted previously on Discharge of Condition application DET/MAL/17/05142 and having assessed the submitted above documents which accompanied that planning application, LLFA had raised no objection in relation to the principle of the maintenance of the surface water drainage system. The submissions are no different and therefore weight can be afforded to the original response.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Environment Agency	No response received to this application at the time of writing this report.	It is noted that the Environment Agency previously recommended the discharge of conditions 16 and 29 and as there have been no changes to the submissions of the applicant, it is expected that the same conclusion will be reached.
Anglian Water Services	It is recommended that conditions 16 and 29 are discharged.	Noted in the report

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health Services (EHS)	EHS have advised that they would like reassurance that no resident will be adversely affected by the additional retention storage to be provided at Avenue Road pumping station.	This comment is not relevant to this site.

7.4 Representations received from Interested Parties

7.4.1 No letters received for this Discharge of Condition application.

8. **RECOMMENDATION**

That the following conditions be **DISCHARGED**:

Conditions	Discharged
12	Yes
15	Yes
16	Yes
29	Yes