



**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

---

to  
**DISTRICT PLANNING COMMITTEE (SPECIAL)**  
**23 OCTOBER 2019**

<b>Application Number</b>	<b>DET/MAL/19/05117</b>
<b>Location</b>	Manor Farm, The Avenue, North Fambridge
<b>Proposal</b>	Compliance with conditions notification OUT/MAL/14/01018 (Outline planning application for up to 30 dwellings) Condition 16 - Foul water strategy. Condition 29 - Detailed wastewater
<b>Applicant</b>	BDW Eastern Counties
<b>Agent</b>	N/A
<b>Target Decision Date</b>	8 November 2019 (Under PPA)
<b>Case Officer</b>	Julia Sargeant
<b>Parish</b>	North Fambridge
<b>Reason for Referral to the Committee / Council</b>	Under Planning Performance Agreement (PPA)

**1. RECOMMENDATION**

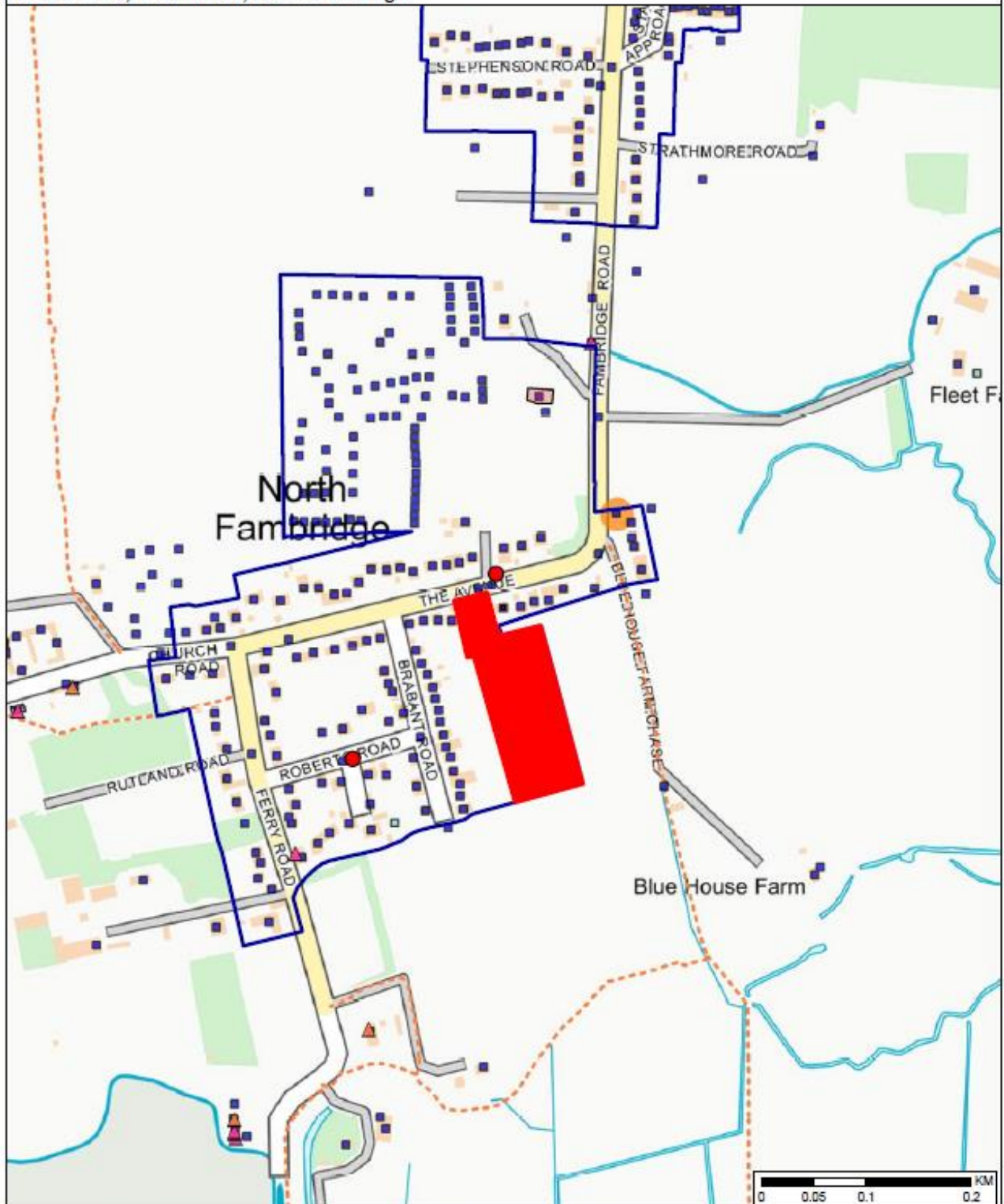
The recommendation is to discharge the conditions as set out in Section 8 of the report.

**2. SITE MAP**

Please see overleaf.

19/05117/DET

Manor Farm, The Avenue, North Fambridge



**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 100016586 2014

Scale: 1:5,000

Organisation: Maldon District Council

Department: Department

Comments: NW Area Planning Committee

Date: 02/10/2019

### **3. SUMMARY**

#### **3.1 Proposal**

3.1.1 This discharge of conditions application seeks the discharge of conditions 16 and 29 attached to outline consent OUT/MAL/14/01018.

3.1.2 Outline consent OUT/MAL/14/01018 was granted on 11 January 2016 for the following description of development:

*“Outline planning application for up to 30 dwellings”*

3.1.3 Reserved matters consent has also subsequently been approved under reference RES/MAL/18/00558 on 17 July 2018.

3.1.4 The two conditions that the applicant wishes to discharge are conditions 16 and 29 which read as follows:

*“16. 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.*

*REASON In order to prevent damage to the environment and harm to the amenity of residential occupiers in the locality arising from flooding, in accordance with policies BE1 and CON5 of the adopted Maldon District Replacement Local Plan, and policies D1 and I1 of the Submission Maldon District Local Development Plan.”*

*“29. 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.*

*REASON In order to prevent damage to the environment and harm to the amenity of residential occupiers in the locality, in accordance with policies BE1 and CON5 of the adopted Maldon District Replacement Local Plan, and policies D1 and I1 of the Submission Maldon District Local Development Plan.”*

#### **3.2 Site Description**

3.2.1 The application site comprises farm buildings which have been unused for a number of years as part of an agricultural holding as well as 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.

- 3.2.2 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.
- 3.2.3 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.

### **3.3 Relevant Planning History**

- 3.3.1 There have been previous submissions to get conditions 16 and 29 formally discharged under references DET/MAL/17/05142 and DET/MAL/18/05092; however both submissions were refused in relation to conditions 16 and 29.
- 3.3.2 DET/MAL/17/05142 was submitted on 19 September 2017 and was formally refused on 15 May 2018. The reason given for refusing to clear the conditions was as follows:

*“16 - The North Western Area Planning Committee on 14 May 2018 determined that it has not been demonstrated to the satisfaction of the Local Planning Authority that adequate capacity for the handling and disposal of foul water is available to serve the development and therefore Condition 16 of outline planning application OUT/MAL/14/01018 is not discharged.”*

*“29 – At the North Western Area Planning Committee on 14 May 2018 it was concluded that it has not been demonstrated to the satisfaction of the Local Planning Authority that adequate capacity for the handling and disposal of wastewater is available to serve the development and therefore Condition 29 of outline planning application OUT/MAL/14/01018 is not discharged.”*

- 3.3.3 Following the Council’s refusal to clear conditions 16 and 29 under DET/MAL/17/05142 the applicant lodged an appeal and re-submitted a further discharge of conditions application under reference DET/MAL/18/05092.
- 3.3.4 DET/MAL/18/05092 was determined prior to the appeal decision relating to DET/MAL/17/05142 with the reason given by the Council for refusing to discharge the conditions as follows:

*“16 - The North Western Area Planning Committee on 06 August 2018 determined that it has not been demonstrated to the satisfaction of the Local Planning Authority that adequate capacity for the handling and disposal of foul water is available to serve the development and therefore Condition 16 of outline planning application OUT/MAL/14/01018 is not discharged.”*

*“29 - At the North Western Area Planning Committee on 06 August 2018 it was concluded that it has not been demonstrated to the satisfaction of the Local Planning Authority that adequate capacity for the handling and disposal of wastewater is available to serve the development and therefore Condition 29 of outline planning application OUT/MAL/14/01018 is not discharged.”*

- 3.3.5 The appeal decision relating to DET/MAL/17/05142 was issued on 7 March 2019 and dismissed conditions 16 and 29 of the Manor Farm application. The appeal also dealt with conditions attached to a near by development site known as Land West of Fambridge Road, North Fambridge. This site is larger and has outline and reserved matters consent (under references OUT/MAL/14/01016 and RES/MAL/19/00252) for 75 market and affordable dwellings, a village centre of up to 1,000sq m of flexible commercial and community floorspace, a 1.8ha village green and public open space.
- 3.3.6 When outline consent was granted for the larger site at Land West of Fambridge Road it was subject to condition No. 13 which amongst other elements ensures that no dwellings shall be occupied until confirmation is obtained of available permitted capacity in the network and at the treatment works. No such condition restricting occupation until confirmation is obtained of available permitted capacity in the network and at the treatment works was attached to the Manor Farm development site.
- 3.3.7 The Inspector confirmed within his Decision “that whilst it has been demonstrated that surface water from the two sites would be adequately dealt with and that with the works proposed additional flows would not overload the local foul sewer network, problems would remain with capacity at the Water Recycling Centre (WRC)”.
- 3.3.8 The Inspector went on to state that in relation to the larger site Land West of Fambridge Road “the requirement in condition 13 that no occupation of dwellings occurs until, amongst other matters, confirmation of the available permitted capacity at the treatment works offers sufficient control over the timing of improvements to ensure that any necessary works are implemented before the houses on this site place demands on the WRC”.
- 3.3.9 When considering the appeal in relation to Manor Farm the Inspector concluded that “no such condition preventing occupation or the commencement of development until available permitted capacity at the WRC was confirmed was attached to the planning permission. Whilst conditions (Nos 17 and 30) attached to this permission prevent occupation of the houses on this site until the foul and wastewater strategies required for this development have been implemented, the submitted strategy does not include addressing capacity issues at the WRC. As a result, the 30 houses on this site could be built and occupied before the WRC has available capacity to deal with the additional flow from these dwellings”.
- 3.3.10 This current discharge of conditions application has been submitted with a revised foul and wastewater strategy which seeks to address the Inspectors comments in relation to the recent appeal decision.

### 3.4 Conclusion

- 3.4.1 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?
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 2019 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
- 91-95 Promoting healthy and safe communities
- 148-165 Meeting the challenge of climate change, flooding and coastal change
- 170-183 Conserving and enhancing the natural environment

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

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

### 4.3 Relevant Planning Guidance / Documents:

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

## 5. MAIN CONSIDERATIONS

### 5.1 Principle of Development

- 5.1.1 The principle of the development has already been agreed through the granting of outline consent OUT/MAL/14/01018 and the subsequent reserved matters consent RES/MAL/18/00558.

## **5.2 Foul and Wastewater**

- 5.2.1 This discharge of conditions application relates to the conditions which require foul and wastewater strategies to be submitted to and agreed in writing by the Local Planning Authority prior to any work commencing on site. There are known capacity issues with the Latchingdon WRC which led to the previous attempts to discharge the existing conditions to be refused. The following information has been submitted in support of this discharge of conditions application:
- Site Location Plan – 746.200.02
  - Foul Water Drainage Strategy – BDW Eastern Counties
  - Anglian Water – Pre-Development Report
  - Letter from the Environment Agency date 31st July 2019
  - S30 Agreement Overall Drainage Layout – H7408-3B-SP572 – Rev P3
  - S30 Agreement Layout Manor Farm – H7408-3B-SP-570 – Rev P3
- 5.2.2 The previous foul and wastewater arrangements proposed for this development (under DET/MAL/17/05142 and DET/MAL/18/05092) sought to connect into the existing local sewage network which drains to the Latchingdon WRC. However the Latchingdon WRC has no capacity to deal with any additional flows and the Environment Agency have advised that Latchingdon WRC has been flow non-compliant with the existing permit conditions for 2 years.
- 5.2.3 In order to overcome the capacity issues at the Latchingdon WRC the applicant has worked with Anglian Water to find a revised foul and wastewater strategy to serve the development. The revised foul and wastewater drainage strategy will direct flows to the sewerage network draining to the South Woodham Ferrers WRC via a new rising main. As no local connections are made the developments will have no impact upon the headroom / capacity issues at Latchingdon WRC.
- 5.2.4 Anglian Water have examined the performance of South Woodham Ferrers WRC against its current flow permit and have reviewed this with reference to all predicted growth in the South Woodham Ferrers WRC catchment. It is confirmed that South Woodham Ferrers WRC has headroom within its current permit to take the flows from both North Fambridge development sites (Manor Farm and Land West of Fambridge Road).
- 5.2.5 Anglian Water has a duty to serve sites with planning permission and installation of the rising main is funded by Anglian Water through the zonal charge levy. The zonal charge forms part of the plot connection charges levied to all plots connected within the Anglian Water region.
- 5.2.6 Anglian Water's statutory powers allow the rising main to be installed in the public highway subject to the requisite highway opening notices. Where the rising main is to cross third party land the statutory powers extend to allow land entry subject to the necessary notices (S159 of the Water Industry Act 1991) being served and compensatory payments. This is not a planning consideration and is dealt with under separate legislation.

- 5.2.7 The submitted details regarding the foul and wastewater strategy include a Pre-Development report from Anglian Water Services (AWS) which states the following:

*‘The revised foul water drainage strategy involves the connection of both development sites flows to the sewerage network draining to the South Woodham Ferrers WRC, rather than utilise the local sewerage network serving North Fambridge.*

*The connection will be formed by a dedicated onsite sewage pumping station, located within the boundary of the West of Fambridge Road site. Foul water flows from The Manor Farm site will be connected to the foul water drainage on the West of Fambridge Road site via a connecting gravity sewer.*

*The off-site rising main conveying the new development flows to South Woodham Ferrers catchment will be installed by Anglian Water.’*

- 5.2.8 The Foul Water drainage strategy prepared by David Wilson Homes gives additional information stating:

*‘The previous proposal was to connect to the existing AWS sewer in The Avenue which discharges to the pumping station adjacent to the junction of Fambridge Road and The Avenue. This connection was to be via gravity directly to a manhole located in The Avenue.*

*A revised strategy has been developed which requires a new sewer to be laid from Manor Farm to the new onsite pumping station in the Land West to be constructed by David Wilson Homes. The sewer will be laid to cross The Avenue and follow Crouch Road. This sewer will be constructed under AWS statutory powers and offered for adoption by AWS.*

*This revised strategy will therefore mean that no flows from the proposed Manor Farm development will drain to the existing sewers and pumping station in North Fambridge and ultimately to Latchingdon WRC.’*

- 5.2.9 Plans showing the technical detail of the overall drainage layout as well as capacity detail for South Woodham Ferrers WRC have also been submitted.

- 5.2.10 AWS and the Environment Agency have both been consulted on this discharge of conditions application and have raised no objection. Anglian Water has confirmed that they have no objection to the proposal and that they have been working closely with the applicant to ensure an effective strategy is delivered for the two sites. The Environment Agency have also raised no objection to the discharge of the condition and have stated:

*‘Following the submission of the revised drainage strategy, to which we have already provided comments under another application confirming we are satisfied with the new proposed rising main method to connect to the South Woodham Ferrers WRC, we are pleased to see that the applicant has now provided detailed plans of the on-site connection points for the new foul drainage network set to serve the Manor Farm and Land West of Fambridge Road sites. Plan drawings referenced H7408-3B-SP-570 Revision P3 and H7408-3B-SP-572 Revision P3, both dated July 2019, should be*



*followed during construction works to ensure there are no misconnections to the existing network.*

*We are now satisfied any outstanding concerns have been addressed by the evidence submitted under this application and have no further comments to make.'*

- 5.2.11 The Environmental Health Officer has been consulted and advised that the whilst the principle of taking waste water flows from the development site to South Woodham Ferrers WRC rather than to Latchingdon WRC is acceptable they were concerned about the siting of the pumping station on the southern aspect of the development site in the vicinity of the existing residential property.
- 5.2.12 The pumping station is to be constructed on the larger development site known as Land West of Fambridge Road, North Fambridge which has outline and reserved matters consent (under references OUT/MAL/14/01016 and RES/MAL/19/00252). The provision and position of the pumping station was agreed as part of the reserved matters consent and is not relevant to this discharge of conditions application.
- 5.2.13 Essex County Council (ECC) Sustainable Drainage Systems (SuDS) as the Lead Local Flood Authority (LLFA) were consulted on this discharge of conditions application as requested by the Environmental Health Officer and has confirmed that they have no objection to the discharge of the conditions as the application is related to conditions not relevant to surface water drainage.

### **5.3 Condition 16 of OUT/MAL/14/01018**

- 5.3.1 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'*

- 5.3.2 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'*.
- 5.3.3 Condition 17 requires the foul water strategy to have been carried out in complete accordance with the approved details prior to the dwellings being occupied.
- 5.3.4 Overall it is considered that the information submitted in support of this discharge of conditions application has addressed the concerns previously raised by the Council and the Planning Inspector as no local connections are made and the development will have no impact upon the headroom/capacity issues at Latchingdon WRC. Furthermore AWS and the EA have advised that they have no objection to the foul drainage scheme proposed.

## 5.4 Condition 29 of OUT/MAL/14/01018

### 5.4.1 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'*

### 5.4.2 Condition 29 in relation to wastewater strategy was recommended by 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.'*

### 5.4.3 Condition 29 requires the wastewater strategy to have been carried out in complete accordance with the approved details prior to the dwellings being occupied.

### 5.4.4 Overall it is considered that the information submitted in support of this discharge of conditions application has addressed the concerns previously raised by the Council and the Planning Inspector as no local connections are made and the development will have no impact upon the headroom/capacity issues at Latchingdon WRC. Furthermore AWS and the Environment Agency (EA) have advised that they have no objection to the wastewater drainage scheme proposed.

## 6. ANY RELEVANT SITE HISTORY

- **OUT/MAL/13/00473** - Outline planning application for up to 30 dwellings – Refused- 11.02.2014.
- **OUT/MAL/14/01018** - Outline planning application for up to 30 dwellings – Approved subject to S106 - 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.
- **DET/MAL/17/05142** - Compliance with conditions notification OUT/MAL/14/01018 (Outline planning application for up to 30 dwellings) Condition 4 - Samples of external surfaces. Condition 5 - Archaeological assessment. Condition 8 - Finished ground and finished floor levels. Condition 12 - On-site construction management plan. Condition 15 - Responsibility of maintenance of surface water drainage system. Condition 16 - Foul water strategy. Condition 18 - Investigation and risk assessment. Condition 25 - Removal of trees & hedgerows. Condition 26 - Siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers. Condition 27 - Ecological mitigation measures. Condition 29 - Wastewater strategy. Conditions Part Cleared Part Refused - 04.05.2018 – Appeal Part Allowed Part Dismissed – 07.03.2019
- **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.

- **DET/MAL/18/05080** - Compliance with conditions notification OUT/MAL/14/01018 (Outline planning application for up to 30 dwellings) Condition 18. Investigation and risk assessment – Approved - 07.08.2018.
- **DET/MAL/18/05092** - 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 – Conditions Part Cleared Part Refused - 07.08.2018.
- **DET/MAL/18/05122** - Compliance of conditions notification of approved application OUT/MAL/14/01018 Outline planning application for up to 30 dwellings. Condition 6. Site clearance or groundworks. Condition 7. Level 3 of the code for sustainable homes. Condition 19. Remediation scheme – Conditions Part Cleared Part Refused - 03.12.2018
- **OUT/MAL/19/00556** - Remove conditions 16 & 29 on approved application OUT/MAL/14/01018 (Outline planning application for up to 30 dwellings) and replace with a new condition – Pending Consideration.

## 7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

### 7.1 **Statutory Consultees and Other Organisations** (*summarised*)

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Anglian Water Services	<p>Anglian Water recommends discharge of conditions 16 – Foul Water Strategy and 29 – Wastewater.</p> <p>Advise they have been working closely with the applicant and have an agreed drainage strategy. Foul flows from the site will be directed to South Woodham Ferrers Water Recycling Centre, where they is capacity within the current permit to treat the flows.</p>	Noted and referred to in section 5.2 of the report.
Essex County Council SuDS	This application is related to conditions not relevant to surface water drainage therefore have no comments. However if any changes are proposed to surface water drainage then advise they should be re-consulted as part of a separate application.	Noted. No changes are proposed to the surface water drainage.

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Environment Agency	<p>Satisfied to now recommend the discharge of conditions 16 and 29.</p> <p>Following the submission of the revised drainage strategy, to which the EA have already provided comments under another application confirming we are satisfied with the new proposed rising main method to connect to the South Woodham Ferrers WRC, the EA are pleased to see that the applicant has now provided detailed plans of the on-site connection points for the new foul drainage network set to serve the Manor Farm and Land West of Fambridge Road sites. Plan drawings referenced H7408-3B-SP-570 Revision P3 and H7408-3B-SP-572 Revision P3, both dated July 2019, should be followed during construction works to ensure there are no misconnections to the existing network.</p> <p>The EA are now satisfied any outstanding concerns have been addressed by the evidence submitted under this application and have no further comments to make.</p>	Noted and referred to in section 5.2 of the report.

## 7.2 Internal Consultees (*summarised*)

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	<p>Advises that the Environment Agency and Essex County Council Lead Local Flood Authority must be consulted on this application.</p> <p>Whilst the principle of taking waste water flows from the development site to South Woodham Ferrers WRC rather than to Latchingdon WRC is acceptable the EHO is concerned about the siting of the pumping</p>	<p>Noted. The EA and the LLFA have both been consulted.</p> <p>The position of the pumping station is not for consideration as part of this submission and was agreed under the reserved matters consent.</p>

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
	station on the southern aspect of the development site in the vicinity of the existing residential property.	

### 7.3 Representations received from Interested Parties (*summarised*)

- 7.3.1 A number of letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

<b>Objection Comment</b>	<b>Officer Response</b>
Concerns over the funding for the new sewage system.	Anglian water has confirmed they will fund the new rising main.
Maldon District Council (MDC) should maintain the position that no houses should be built until the rising main to SWF WRC has been constructed and connected.	There is no requirement under the conditions attached to OUT/MAL/14/01018 for any agreed foul and wastewater scheme to be implemented prior to commencement but it must be in place prior to occupation (conditions 17 and 30)
4" main seems very narrow and likely to be blocked even if the waste is pumped.	Anglian Water have confirmed that the 4" (or 100mm) nominal bore rising main is a suitable standard for this purpose and is in fact the same as the current rising main from Franklin Road PS, which serves the whole of N Fambridge.
The proposed siting for the pumping station is not acceptable and likely to lead to noise and odour nuisance.	This application is not to consider the position of the pumping station – this has already been agreed.

## 8. **RECOMMENATION**

That the following conditions be **DISCHARGED**

<b>Conditions imposed on outline planning application OUT/MAL/14/01018</b>	<b>Discharged?</b>
16	Yes
29	Yes