



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
6 OCTOBER 2021**

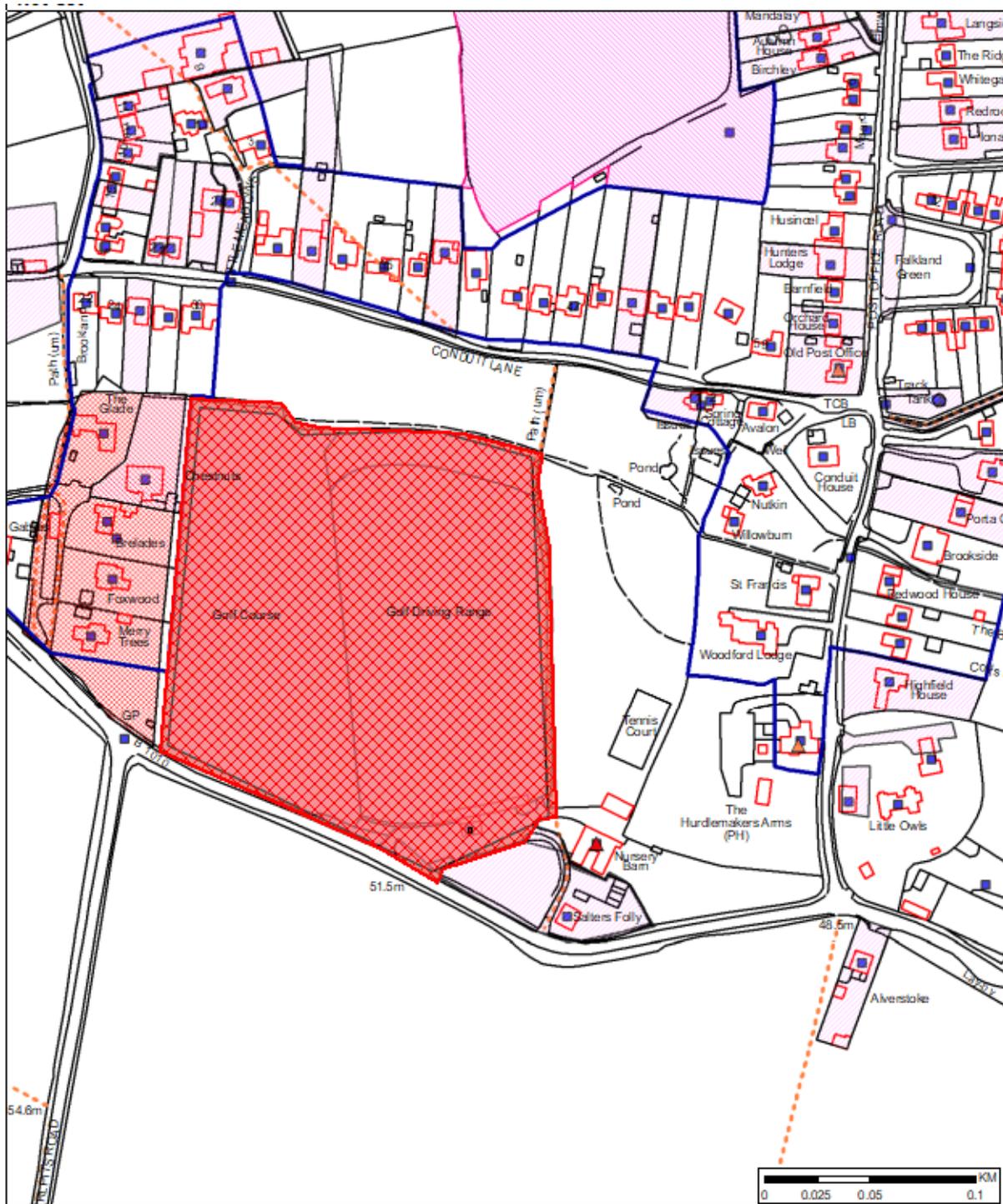
Application Number	21/00693/OUT
Location	Golf Driving Range Burnham Road Woodham Mortimer
Proposal	Outline planning permission with the matter of access for consideration is sought for the demolition of the building and replacement of the driving range and pitch & putt with up to 25 new one and two bedroom single storey dwellings and public open space with an equipped play area.
Applicant	Joshua Charles Ltd
Agent	Ian Robottom
Target Decision Date	29.10.2021
Case Officer	Hannah Bowles
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Major Application Member Call In from Councillor M F L Durham, the reason for this call in is that this is a major application of significance to the area.

1. **RECOMMENDATION**

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

2. **SITE MAP**

Please see below.



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	Organisation:	Maldon District Council
	Department:	Planning Services
	Comments:	Not Set
	Date:	21/09/2020
	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Site description

- 3.1.1 The application site is a parcel of land amounting to 3.4 hectares in size. The site is currently used as a golf driving range, pitch and putt course, together with the sales of bottled gas. A single storey building occupies the site, which is used as a reception area and for the sale of the gas bottles, and thirteen covered driving bays. The remainder of the site is laid to grass and is surrounded by netting, trees and hedgerow.
- 3.1.2 The site is located on the northern side of Burnham Road in a rural location outside but adjacent to the settlement boundary of Woodham Mortimer. The east and western boundaries of the site abut residential development and open and undeveloped land lie to the north and south (opposite) of the site. A public footpath, which runs in a north to south direction, is located along the entire eastern boundary of the site.
- 3.1.3 The application site is accessed via Burnham Road. The access to the site serves two existing dwellings to the east of the site 'Nursery Barn' and 'Salters Folly', which is a grade II* listed building.

Proposal

- 3.1.4 Outline planning permission with the matter of access for consideration is sought for the demolition of the building and replacement of the driving range and pitch and putt with 25 new one and two-bedroom detached and semi-detached single storey dwellings. The vehicular access point would remain as existing with a proposed access track.
- 3.1.5 The matters for consideration are the principle of the development and the access point to the site. The appearance, landscaping, layout and scale of development will form the reserved matters to be determined at a later stage, should this application be approved.
- 3.1.6 Although outline in nature, an indicative layout plan has been submitted with the application. The plan shows the residential development sited on the western side of the site, with an access track looping around with the proposed 25 dwellings set around the access track. Seven plots are located adjacent to the western boundary of the site, two plots to the rear of the site and the remaining 16 plots set within the centre of the access track. Some landscape buffer planting is shown along the southern, western and northern boundaries of the site and individual tree planting within the site. The eastern side of the site is proposed to be an area of public open space which would contain a children's play area and public car parking towards the front of the site and within a landscaped area towards the rear boundary of the site, a treatment plant and surface water attenuation basin are indicatively shown.
- 3.1.7 In addition to the above, the front elevation and floor plans of three indicative bungalow types has been supplied within the Design and Access Statement (the plans are not to scale); two one-bed dwellings, in the form of a semi-detached bungalow and a detached two-bed bungalow. The indicative bungalows are traditional in form and appearance with hipped roofs and gable projections.

- 3.1.8 In terms of access it should be noted that the Town and Country Planning (Development Management Procedure) (England) Order 2015 defines access in relation to reserved matters as being:

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

- 3.1.9 Therefore, it is considered that the internal roads and footpaths form part of the consideration of this application.
- 3.1.10 The proposed access point from Burnham Road would remain as existing and is towards the eastern end of the site. The primary access track would run northwards and loop to the west towards the rear boundary of the site where it branches off to allow access to the individual plots. The access track branches off approximately 15m from the access point to provide vehicular access to a car parking area and the existing neighbouring dwellings 'Nursery Barn' and 'Salters Folly'. A pedestrian route is proposed to link the parking area to the main access track. Towards the rear of the site, at the end of the proposed access track a further pedestrian and cycle route to link to the existing public footpath, which runs along the entire eastern boundary of the site, is proposed.
- 3.1.11 The application is supported by a Planning Statement, stating that 40% of the proposed development would be affordable housing (amounting to 10 dwellings) or alternatively a commuted sum (developer contribution) of an amount to be agreed for any proportion or for the entire amount of affordable housing. In addition, it is highlighted that the bungalows would be wheelchair accessible and adaptable and would provide dwellings suited and adaptable for retired and/or disabled persons, although they are open market dwellings, which will be available without restriction. Further, an area of open space which would include landscaping, recreational space and an equipped children's play area would be provided. These elements would be secured via a separate S106 agreement.

Background Information

- 3.1.12 The application forms a resubmission following the refusal of application reference 20/00675/OUT, which proposed outline planning permission with the matter of access for consideration for the demolition of the building and replacement of the driving range and pitch and putt with 25 new one and two-bedroom detached and semi-detached elderly persons/disabled bungalows. the application was refused for the following reasons:
1. *The application site is in an unsustainable and rural location outside of the defined settlement boundary for Woodham Mortimer where policies of restraint apply. The Council can demonstrate a five-year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Local Development Plan. In addition, whilst the development proposes to provide housing to meet specialised needs, it fails to comply with the criteria contained within policy H3 which relates to 'Accommodation for Specialist Housing Needs', due to its inappropriate location. Further, the application site is remote from essential support facilities, community services, is inaccessible by a range of transport and is located where the need to*

travel would be maximised and the use of sustainable transport modes would be minimised and would therefore represent an unsustainable form of development and would fail in relation to the social strand of sustainability. Therefore, the proposal conflicts with policies S1, S8, H3 and T2 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.

- 2. The proposed development would fundamentally alter the open character of the south western edge of the village. The provision of twenty-five unjustified residential dwellings on this site currently used as golf driving range / pitch and putt would fail to provide visual enhancement to the wider rural locality, representing the encroachment of built form into the rural site and sprawl of development beyond the settlement boundary. The layout of the access roads, particularly the cul-de-sac arrangements, is in stark contrast to the existing development within Woodham Mortimer and is considered to contribute to the harm of the proposal. Therefore, the proposal fails on the environmental stand of sustainability, in conflict with policies S1, S8, D1, and H4 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.*
- 3. The proposed residential development would result in the unjustified loss of an employment use, community facility, tourism facility and sports and leisure facility. It has not been satisfactorily justified or evidenced that the sites present use significantly harms the character and amenity of the area, the proposed use would be a greater benefit to the community, or that the site has been marketed for sale or rent and that there is a confirmed lack of interest. Further, it has not been demonstrated that the existing use is no longer viable, that there will be no significant loss of tourism facilities or that the land is surplus to requirements to meet local need or that alternative provision in the locality can meet the needs. Therefore, the proposal conflicts with policies E1, E3, E5 and N3 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.*
- 4. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the development makes no contribution for affordable housing to meet the identified need in the locality, the necessary financial contribution towards Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy, the management and maintenance of the public open space and would fail to secure the provision of residential travel packs for sustainable modes of transport, required for the future occupiers of the site contrary to Policies S1, D1, H1 and I1 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.*

3.1.13 The main changes to the scheme when compared to the previously refused scheme are as follows:

- The proposed internal access track has been amended;
- The indicative layout has been amended;
- The previous bungalows were proposed to be specifically designed to suit retired and disabled people and would have been marketed solely to residents of the district for an agreed period prior to being advertised on the open market. Whilst the dwellings remain suitable for retired and disabled people, they would not be specifically marketed as such;
- An updated Planning Statement has been submitted, the content of which is discussed within this report.

3.1.14 It is also pertinent to note that since the determination of the previous application the Council can no longer demonstrate a 5 Year Housing Land Supply (5YHLS) and The Local Housing Needs Assessment (LHNA) (2021) has been formally adopted and published.

3.1.15 It is also relevant to note that application 17/00286/OUT, which proposed to demolish the existing building, cease the driving range and pitch and putt uses and erect eight two-storey detached dwellinghouses across the site was refused in June 2017, when the current Local Development Plan (LDP) was at a draft stage, prior to its approval, for the following reasons:

- 1. 'The application site is in a rural location outside of the defined settlement boundary for Woodham Mortimer where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Local Development Plan to meet the objectively assessed needs for housing in the District. The proposed development would fundamentally alter the open character of the south western edge of the village. The provision of eight residential dwellings on this site currently used as golf driving range / pitch and putt would fail to protect or enhance the tranquility, amenity and traditional quality of the rural area by introducing unacceptable built form into a site that currently contributes to, the rural quality of the area. Further, the site is located in an unsustainable location and therefore, the construction of new dwellings located some distance away from community services and essential support facilities, and inaccessible by a range of transport would mean that the future occupiers of the site would be heavily reliant on the use of private cars. The proposal would be contrary to policies S1, H1, T1, T2, BE1, CC6 of the adopted Maldon District Replacement Local Plan; policies S1, S8, T1, T2, D1, H4 of the Maldon District Local Development Plan; and the core planning principles and Government advice contained within the National Planning Policy Framework.'*
- 2. The proposed residential development would result in the loss of employment land and tourism provision which is currently in use. No justification or evidence has been provided for the loss of this land by way of evidence that the existing use demonstrably harms the character and appearance of the area, the proposed use would be of greater benefit to the community, or that the site has been marketed for sale or rent and that there is a confirmed lack of interest. The development proposal would therefore have an adverse impact on the limited supply of employment generating land, contrary to policy E6 of the adopted Maldon District Replacement Local Plan, policies E1 and E5 of the Maldon District Local Development Plan, and Government advice contained in the National Planning Policy Framework.'*

3.2 Conclusion

3.2.1 This application represents a re-submission following the refusal of application 20/00675/OUT. The amendments to the scheme are detailed within paragraph 3.1.13 and it is pertinent to note that since the determination of the previous application the Council can no longer demonstrate a 5YHLS. Having taken all the material planning considerations into account, it is not considered that the changes to the scheme or the Council's policy position have overcome the previous concerns raised.

- 3.2.2 The application site is located in an unsustainable location where future occupiers of the proposed dwellings would be heavily reliant on motor vehicle transport, contrary to the National Planning Policy Framework's (NPPF) "presumption of sustainable development" and policies S1, S8 and T2 of the LDP
- 3.2.3 Further, the proposed development would fundamentally alter the open character of the south western edge of the village. The provision of twenty-five unjustified residential dwellings on this site currently used as a golf driving range / pitch and putt would fail to provide visual enhancement to the wider rural locality, representing the encroachment of built form into the rural site and sprawl of development into the open countryside. The layout of the access road is in stark contrast to the existing development within Woodham Mortimer and is considered to contribute to the harm of the proposal. Therefore, the proposal would fail to comply with policies S8, D1 and H4 of the Maldon District Local Development Plan (MDLDP).
- 3.2.4 Furthermore, the proposed residential development would result in the unjustified loss of an employment use, community facility, tourism facility and sports and leisure facility. It has not been satisfactorily justified or evidenced that the loss of the important and beneficial current use complies with the criteria set out in policies E1, E3, E5 and N3 of the Maldon District Local Development Plan.
- 3.2.5 Lastly, in the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 the development makes no contribution for affordable housing, the necessary financial contribution towards Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) and National Health Services , the management and maintenance of the public open space and would fail to secure the provision of residential travel packs for sustainable modes of transport, required for future occupiers of the site.
- 3.2.6 Whilst it is noted that there are some benefits arising from the scheme, it is not considered that those benefits would be sufficient to outweigh objections highlighted above.

4. MAIN RELEVANT POLICIES

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

National Planning Policy Framework 2021 including paragraphs:

- 7 Achieving sustainable development
- 11 The presumption in favour of sustainable development
- 60-80 Delivering a sufficient supply of homes
- 104-113 Promoting sustainable transport
- 119-125 Making effective use of land
- 126-136 Achieving well-designed places
- 174-188 Conserving and enhancing the natural environment

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 Built Environment
- D2 – Climate Change and Environmental Impact of New Development

- D5 – Flood Risk and Coastal Management
- E1 – Employment
- E2 – Retail Provision
- E3 – Community Services and Facilities
- E5 – Tourism
- H1 – Affordable Housing
- H2 – Housing Mix
- H3 – Accommodation for ‘Specialist’ Housing Needs
- H4 – Effective Use of Land
- N2 – Natural Environment, Geodiversity and Biodiversity
- N3 – Open Space, Sport and Leisure
- T1 – Sustainable Transport
- T2 – Accessibility
- I1 – Infrastructure and Services

Relevant Planning Guidance / Documents:

- National Planning Policy Guidance (NPPG)
- National Planning Policy Framework (NPPF)
- Vehicle Parking Standards
- Maldon District Design Guide (MDDG)
- The Local Housing Needs Assessment (2021)
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5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Council is required to determine planning applications in accordance with its adopted Development Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990).
- 5.1.2 The previously refused applications 20/00675/OUT and 17/00286/OUT were refused based on the unsustainable location of the site which would result in the future occupiers of the dwelling being heavily reliant on the use of private cars. Since the determination of the previous application the Council can no longer demonstrate a 5YHLS.
- 5.1.3 As part of the drive to deliver new homes the Government has stated that there is a need for Council’s to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the 5YHLS.
- 5.1.4 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the ‘Tilted Balance’. This position is set out in paragraph 11d, together with its footnote 8 of the NPPF which states:

“For decision taking this means:

“(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

“(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

“(ii) 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.”

Footnote 8 - This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74)

- 5.1.5 At the heart of the NPPF is a presumption in favour of sustainable development (the ‘presumption’) which is central to the policy approach in the Framework, as it sets out the Government’s policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces those Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37).
- 5.1.6 It is 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. However, 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 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.
- 5.1.8 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 re-iterates the requirements of the NPPF but there are no specific policies on sustainability in the current Local Plan. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be ‘sustainable development’ through the three dimension tests of the NPPF, the LPA is obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme.

5.1.9 Paragraph 79 of the NPPF states that:

'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.'

5.1.10 Planning permission is sought for the construction of 25 dwellings outside of the settlement boundary of Woodham Mortimer. Woodham Mortimer is a village classified as a 'Smaller Village' within the district which is described within policy S8 of the LDP as a 'defined settlements containing few or no services and facilities, with limited or no access to public transport, very limited or no employment opportunities.'

5.1.11 In social terms, development should assist in supporting a strong vibrant and healthy community. Whilst the site is in close proximity to the development boundary, it is not considered to be within an accessible location and strong concerns are raised in this respect, particularly considering that the bungalows are designed to accommodate disabled and/or retired people.

5.1.12 There are no shops, services or a bus stops readily available within the immediate surrounding area. The closest bus stop is around 0.4 miles from the application site walking via the public footpath, which is the only safe route from the application site. The bus stop, which is located on Conduit Lane is serviced by the D1 and D2 buses which provide an extremely limited service to Maldon and Mayland. There is a public footpath along the eastern boundary of the site which links to the village. However, Woodham Mortimer provides an extremely limited level of facilities and services. Therefore, it is considered that the proposed development is located away from community services and essential support facilities, and inaccessible by a range of transport resulting in the future occupiers of the site being heavily reliant on the use of private cars. The accessibility credentials of the site are considered to weigh heavily against the proposal.

5.1.13 The Planning Statement highlights that the site is located adjacent to the defined settlement boundary of Woodham Mortimer. However, this is not considered to carry significant weight given the assessment above, which sets out the poor accessibility credentials of the site and that the Council's approved policies carry less weight at present due to the lack of 5YHLS, including policy S8 'Settlement Boundaries and Countryside', a full assessment has been carried out in respect of the accessibility credentials of the site and the fact it is in close proximity to the settlement boundary carries limited weight. The Statement goes on to highlight that Danbury is located 2km away and is accessible by bus. However, the site is removed from public transport options and a distant and unsafe walk from the bus stops in the area.

5.1.14 Paragraph 105 of the NPPF which states that "*The planning system should actively manage patterns of growth in support of these objectives. Significant 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.*" Overall it is considered that the future occupiers would be heavily reliant on the use of private motor vehicles and the proposal would also fail to accord with Policy T2 of the LDP or the presumption in favour of sustainable development contained within the NPPF.

5.1.15 The proposal would also result in the unjustified loss of a community and sports facility which is considered to weigh heavily against the social sustainability of the site (discussed below).

- 5.1.16 In economic terms, it is reasonable to assume that there may be some support for local trade from the development. This would however be limited given the scale of the proposal of 25 dwellings. Equally, there is no guarantee that the construction works required for this development would be undertaken by local businesses, the economic benefits of the proposal are therefore considered minor. Furthermore, whilst the residents of the proposed dwellings would bring some economic benefits to the village, which may provide some support to existing services, it is not considered that the benefits would be substantial. Therefore, due to the limited provision of local businesses, shops and services and the minor nature of the development there would be a limited increase in footfall or economic benefit to the area. In addition, the proposal would result in the unjustified loss of an employment use and tourism facility (discussed below) which would significantly outweigh any benefits in this respect.
- 5.1.17 The environmental strand of sustainability will be discussed within section 5.4 of this report and concerns in this respect are raised.
- 5.1.18 Overall, it is not considered that the proposal represents sustainable development and the benefits of the scheme are not considered to outweigh the harm.

5.2 Loss of Employment Use, Community and Tourism Facility and Sports and Leisure Facility

- 5.2.1 The proposed development would result in the entire loss of the existing facilities provided at the application site, which are golf driving range, pitch and putt course and the sales of bottled gas. Therefore, the proposal would result in the loss of an employment generating use and a community, tourism and sports and leisure facility. It is considered important that the use of this site is maintained and improved (or some similar activities provided) to support employment, tourism and sport and leisure opportunities in the locality. Therefore, in order for the proposal to be supported, it will need to comply with the criteria set out in policies E1, E3, E5 and N3 of the LDP.

Loss of Employment Use

- 5.2.2 Policy E1 of the LDP seeks to protect existing employment uses in the district. The proposed development would result in the loss of an employment generating use as a golf driving range, pitch and putt course and for the sales of bottled gas. Policy E1 stipulates that *'Proposals which will cause any loss of existing employment uses, whether the sites are designated or undesignated, will only be considered if:*
- 1) The present use and activity on site significantly harms the character and amenity of the adjacent area; or*
 - 2) The site would have a greater benefit to the local community if an alternative use were permitted; or*
 - 3) The site has been marketed effectively at a rate which is comparable to local market value for its existing use, or as redevelopment opportunity for other Class B Uses or Sui Generis Uses of an employment nature, and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site's existing and potential long-term market demand for an employment use.'*
- 5.2.3 In relation to criterion 1 and 2 the applicant suggests that the traffic movements, floodlighting, golf balls travelling beyond the site and the general appearance of the golf related netting, lighting and paraphernalia harm the character and appearance of the area. Additionally, it is contended that the proposed public open space and play area would be a better community facility than the current private sports facility and

the provision of 25 dwellings within the district would result in the proposal having a greater benefit to the local community than the existing use.

- 5.2.4 The existing use of the site is established and lawful and is not considered to cause harm to the character or amenity of the locality.
- 5.2.5 Whilst there are some limited benefits to the scheme, these are not considered to outweigh the harm of the proposal (identified within this report). In respect of golf balls travelling beyond the site, it is considered that the netting around the perimeter of the driving range can be improved to prevent such incidents in the future. It is noted that in terms of the traffic movements, the proposed development is unlikely to generate as many trips as the existing permitted use of the site when fully operational (see also 5.7.4). However, the existing traffic movements to and from the site are not considered to harm the character or amenity of the area. The proposed development would result in the provision of 25 dwellings. However, this benefit is offset by the inappropriate, unsustainable and inaccessible location. The benefit of the provision of public open space and a children's play area is offset by the loss of an employment generating use and a sport and leisure, community and tourism facility. Therefore, it is considered the existing lawful use has a greater community benefit than that proposed, even taking into account the inability of the Council to demonstrate a 5YHLS.
- 5.2.6 Further to the above NHS Property Services have highlighted the importance of the existing facility to the community stating the following within their consultation response:
- 'Development of the site for housing would result in the loss of an existing sports facility. The CCG does not support the loss of sports facilities as physical activity results in improved physical and mental health.'*
- 'It is noted that the planning statement submitted states loss of the golf driving range would not be harmful as it is a private facility not available to the general public, is currently underused and other similar facilities are available. However, the loss of the facility would reduce the offer in the Maldon area and so may result in reduced participation in sport and physical activity. Whereas, it could be operated in such a way to encourage and increase participation.'*
- 5.2.7 In relation to criterion 3 no evidence has been submitted to demonstrate that the property has been marketed, and therefore the site's existing and potential long-term market demand for an employment use is unable to be assessed.

Loss of a Community Facility

- 5.2.8 Policy E3 of the LDP states that *'Community services and facilities include, but are not limited to, local shops, post offices, public houses, libraries, places of worship, education facilities, cultural facilities, fuel filling stations, public halls, health care facilities, sporting facilities and local green spaces.'* Given the site is in use as a golf driving range and pitch and putt course the proposed development would result in the loss of a community facility. Policy E3 stipulates that *'Where a proposal will result in the loss of community services or facilities, an application will be required to demonstrate to the Council's satisfaction that:*
- 1) The existing business/service is not and cannot be made viable; and*
 - 2) Effective marketing has been undertaken to demonstrate that there is no viable and appropriate alternative community service based use.*

5.2.9 In relation to criterion 1, the existing business, which encompasses a golf driving range, pitch and putt course and the sales of bottled gas is considered to be viable, it was noted at the time of the previous application that this was confirmed within the submitted planning statement, *'The existing golf facility is not viable without subsidy from the retail sale of bottled gas.'* Under the terms of this application the Planning Statement has been amended to state *'The existing facility is a private one that is under-used and is subsidised by retail sales of bottled gas, without which it would fail. It cannot reasonably be said then that it is a viable enterprise'*. Whilst the applicant contends that the golf driving range and pitch and putt course would not be viable without the sale of bottled gas, it has been confirmed that the business as a whole is viable. In addition, no evidence to substantiate this claim has been submitted. The applicant also claims *'the LPA simplistically and incorrectly conflates the sale of bottled gas from the site with the golf driving range business. The two are entirely separate and unrelated operations. It is simply that the sale of bottled gas enables the applicant to maintain the golf driving range from the same site'*. However, it is a fact that the existing business/businesses at the application site are viable and this is not considered to alter the stance previously taken by the LPA. Further, it is noted at paragraph 5.47 of the applicants planning statement that over a 13 week period (27 May-31 August 2019), there were approximately 67 customers per day visiting the site to utilise the driving range and pitch and putt and 685 bottles of gas were sold over this period. These figures are considered to strengthen the view that the existing business is viable.

5.2.10 In relation to criterion 2 no evidence has been submitted to demonstrate that the property has been marketed and therefore, as above, the site's existing and potential long-term market demand for an employment use is unable to be assessed.

Loss of Tourism Provision

5.2.11 Policy E5 of the LDP states that the Council encourages the provision of tourist attractions and facilities. The existing use of the site as a golf driving range and pitch and putt provides tourist facilities to the district. Policy E5 of the local plan states *'To protect existing tourism provision, the change of use from tourism uses will only be considered if:*

- a) There will be no significant loss of tourism facilities as a result, or an alternative provision in the locality can meet the needs;*
- b) The existing business / service is not and cannot be made viable; and*
- c) There is no known demand for existing and alternative tourism use, and the site has been marketed effectively for all alternative tourism related uses.*

5.2.12 In an attempt to demonstrate compliance with the first stipulation a list of five alternative golf facilities within the district have been highlighted within the planning statement. However, the presence of alternative facilities alone is not considered to demonstrate that there will be no significant loss of tourism facilities as a result of the proposed development or that the alternative facilities can meet the needs.

5.2.13 In respect of the second stipulation, as highlighted above in paragraph 5.2.8 it is not considered that it has been demonstrated that the existing business is not viable.

5.2.14 In respect of the third criterion, no evidence to demonstrate that the site has been marketed has been submitted with the application. Therefore, it is not possible to assess if there is a demand for the existing or an alternative tourism use at the application site.

Loss of Sport and Leisure Facility

- 5.2.15 Policy N3 of the LDP seeks to protect open land and sport and leisure facilities within the district. Policy N3 stipulates that *'Proposals for development on open space, sports and recreational buildings and land, including playing fields, will not be allowed unless:*
- 1) Through an assessment there is clear evidence that the open space, buildings or land are surplus to requirements to meet local needs; or*
 - 2) The resulting loss would be replaced by new open space, buildings or land of equivalent or better provision in terms of quantity and quality and in a suitable location accessible by the local community; or*
 - 3) The development is for alternative sports and recreational provision and the need for that provision clearly outweighs the loss of open space, buildings or land.'*
- 5.2.16 In relation to stipulation 1, no evidence has been submitted to demonstrate that the existing use is surplus to meet local needs. Therefore, the proposal is contrary to this stipulation.
- 5.2.17 In relation to stipulation 2, the existing use of the site would be replaced by 25 residential dwellings and associated development. Therefore, the proposal fails to comply with this stipulation. Whilst part of the site is proposed to be used as public open space equipped with a play area it is not considered to be equivalent or better provision in terms of quantity and quality. In addition, the public open space and play area are removed from the village and would not be readily accessible by the existing residents of the village.
- 5.2.18 In relation to stipulation 3, as highlighted above, the proposal is for 25 dwellings and associated development and it is not considered that the benefits of the scheme outweigh the loss of the recreation facilities.
- 5.2.19 Given the above assessment and the lack of substantive evidence submitted with the application, it has not been demonstrated to the LPA that the proposed development complies with the relevant criteria set out in policies E1, E3, E5 and N3 of the Local Development Plan.

5.3 Affordable Housing and Housing Mix

Affordable Housing

- 5.3.1 Policy H1 requires that all housing development of more than 10 units or 1,000sqm contribute towards affordable housing provision to meet the identified need in the locality and address the Council's strategic objectives on affordable housing.
- 5.3.2 The application proposes 25 dwellings therefore, 10 units of affordable accommodation need to be provided in order for the proposal to be policy compliant. The approved LHNA published on 16 July 2021 now forms a material consideration with regards to planning applications and identifies a tenure mix of 75% Affordable/Social Rented and 25% Intermediate Affordable units.
- 5.3.3 The applicant has confirmed within the submitted Planning Statement that *'Ten units are proposed, to be split 70%/30% between social/affordable rent and shared ownership. Further, the mix of affordable units would be split 80%/20% in favour of one-bedroom units'* and that *'The applicant is also content to agree to the payment of a developer contribution in lieu of on-site affordable housing provision should the LPA prefer to provide the affordable housing element of the development is another location.'* The applicant also indicates a willingness to enter into a S106 legal agreement. However, this has not been submitted in support of this planning application.

- 5.3.4 The Council's Housing team have assessed the proposal and have advised that whilst the Council seeks the provision of on-site Affordable Housing as per policy H1, in exceptional circumstances the Council may consider accepting a financial contribution from the developer where it is justified that affordable housing cannot be delivered on-site, or that the District's need for affordable housing can be better satisfied through this route. This location in Maldon is not an area where Strategic Housing would look to seek a high number of affordable units, however, Strategic Housing could look to seek a smaller quantum of Affordable Housing on site with the remaining percentage of Affordable Housing being delivered through a financial contribution. This would meet the local need for affordable housing units whilst also allowing for a way to meet the needs of the District as a whole.
- 5.3.5 Having regard to the above it is considered that the proposal is policy compliant with regards to Affordable Housing, subject to final details. However, a signed legal agreement has not been submitted to the Council. Therefore, the development makes no contribution for affordable housing, and would therefore not contribute to a strong vibrant community as it would not provide a supply of housing required to meet the needs of present and future generations and as such is not considered to represent sustainable development, contrary to policies S1, H1 and I1 of the LDP, and Government guidance as contained within the NPPF.

Housing Mix

- 5.3.6 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position, the NPPF states that Local Authorities should consider applications for new dwellings in the context of the presumption in favour of sustainable development, and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, 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 the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.
- 5.3.7 Whilst the LDP carries limited weight at present due to the lack of a 5YHLS and consequent impact on its housing delivery policies in particular (including those policies which define settlement boundaries), the NPPF is clear that housing should be provided to meet an identified need.
- 5.3.8 The LHNA (2021) is an assessment of housing need for Maldon District, as a whole, as well as sub-areas across the District which are considered alongside the housing market geography in this report. The 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.
- 5.3.9 The proposal would provide the following dwelling mix:
19 No. 2 bedroom dwellings
6 No. 1 bedroom dwellings
- 5.3.10 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. Therefore, as the proposal includes the provision of 19 two-bedroom dwellings, this would contribute towards the housing need. However, whilst a minor benefit can be drawn from this it would not outweigh the concerns raised within the report.

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 any local design standards or 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 in terms of:-

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- b) Height, size, scale, form, massing and proportion;
- c) Landscape setting, townscape setting and skylines;
- d) Layout, orientation, and density;
- e) Historic environment particularly in relation to designated and non-designated heritage assets;
- f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
- g) Energy and resource efficiency.

5.4.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).

5.4.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the 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.

- 5.4.6 Outline planning permission with the matter of access for consideration is sought for 25 dwellings. The application site lies outside of the defined development boundary of Woodham Mortimer in a rural location. It is pertinent to note that the visual impact of the previously refused schemes for 25 dwellings (2020) and 8 residential dwellings at the site formed a reason for refusal, specifically stating:

20/00675/OUT:

'The proposed development would fundamentally alter the open character of the south western edge of the village. The provision of twenty-five unjustified residential dwellings on this site currently used as golf driving range / pitch and putt would fail to provide visual enhancement to the wider rural locality, representing the encroachment of built form into the rural site and sprawl of development beyond the settlement boundary. The layout of the access roads, particularly the cul-de-sac arrangements, is in stark contrast to the existing development within Woodham Mortimer and is considered to contribute to the harm of the proposal.'

17/00286/OUT:

'The proposed development would fundamentally alter the open character of the south western edge of the village. The provision of eight residential dwellings on this site currently used as golf driving range / pitch and putt would fail to protect or enhance the tranquility, amenity and traditional quality of the rural area by introducing unacceptable built form into a site that currently contributes to, the rural quality of the area.'

- 5.4.7 The application site is located on the south western edge of the village of Woodham Mortimer. The northern boundary of the site abuts open and undeveloped land sited between the rear boundary of the application site and Conduit Lane. To the east the site abuts the residential gardens of Nursery Barn and Salters Folly and the western boundary of the site abuts the rear gardens of four residential properties, which are located within the settlement boundary of Woodham Mortimer. The site fronts onto Burnham Road with open and undeveloped fields located opposite the site. The stretch of Burnham Road within the vicinity of the site is characterised by low density development with an abundance of soft landscaping, residential dwellings located sporadically along the northern side of the road and mainly open and undeveloped fields to the south. The application site is located within the rural countryside and the largely undeveloped nature of the site contributes to the open and rural nature of the area.
- 5.4.8 The prevailing settlement pattern, seen on Conduit Lane (to the north of the site and Post Office Road (to the east), is predominantly dwellings facing the highway with each plot having individual parking and vehicle access onto the highway.
- 5.4.9 The site as existing is largely undeveloped. The existing low level reception building, and the paraphernalia associated with the golf driving range and pitch and putt, is not considered to harm the rural area. The large expanse of open land is considered to contribute positively to the character and appearance of the rural area. The construction of the 25 dwellings along the entire western side of the site would significantly alter the character of the site and would have significant visual impact on the wider area. It is considered that the principle of siting 25 dwellings on a site, in a rural location, that is currently occupied by single storey building and remains largely undeveloped would result in the urbanisation and domestication of the site, representing an encroachment of built form into the site and sprawl of development beyond the settlement boundary. The resulting form of development would detract from the rural character, appearance and natural beauty of the locality. This would fail to provide visual enhancement to the wider rural locality and would intensify the urban appearance of this rural locality. Whilst it is noted that the eastern side of the

site is proposed to be retained as public open space which would be a welcome feature, the proposed car parking area and play area would add to the urbanisation and domestication of the site.

- 5.4.10 The visual impact of the development from public vantage points would be significant. Views of the development would be available from Burnham Road, particularly through the access point. In addition, there is a public footpath which runs along the entire eastern boundary of the application site. The scale, mass and extent of development would be significant and readily visible from the public footpath.
- 5.4.11 The application is outline in nature with matters of layout, scale, appearance and landscaping reserved for consideration at a later stage. Although it should be noted that there is little scope for the broadscale layout to be amended, given that if this outline application were to be approved the access arrangements include the internal road layout within the site.
- 5.4.12 An indicative layout and inactive bungalow types have been submitted with the application. Whilst these plans are not binding, with the exception of the access and access roads, it is common practice to comment upon the details provided.
- 5.4.13 Woodham Mortimer is defined as an 'Arcadian Settlement' within the MDDG. Arcadian Settlements are described as:
- 'Houses are generally in large plots and partially hidden from public view, nestling in mature tree cover, hedgerows and landscaping and structural planting.'*
- 'The existing streetscape is characterised by an original network of lanes, where properties are often set back behind substantial front gardens. The roadside hedges, trees, green verges and ditches were retained. Deep gardens to the side and rear were retained with planted boundaries. The density can be as low as six dwellings per hectare.'*
- 5.4.14 The dwellings immediately adjacent to the site are generally sited centrally within generous size plots with space between buildings and creating a sense of openness and tranquillity representative of the countryside setting of Woodham Mortimer.
- 5.4.15 The indicative layout and a proposed access track have been amended from that previously shown under the terms of application 20/00675/OUT. Whilst the development remains along the western side of the site, the previous scheme demonstrated a main access road running north from Burnham Road within the site and indicatively showed four dwellings located immediately west of the proposed access track and the remainder of the dwellings set within three separate cul-de-sac arrangements. Under the terms of this application the access track is proposed to loop around the western side of the site, starting and finishing at the access point, with the proposed 25 dwellings, indicatively shown, set around the access track, with seven plots located adjacent to the western boundary of the site, two plots to the rear of the site and the remaining 16 plots set within the centre of the access track.
- 5.4.16 The built form is concentrated along the entire western side of the site. Whilst it is noted that the changes have been made in response to concerns regarding the cul-de-sac arrangements, it is considered that amending the layout to one large loop road has not overcome the concerns. There are no developments which are comparable to the proposal in the vicinity of the application site or in the village of Woodham Mortimer. The indicative layout and density of the development (approximately 13 dwellings per hectare,) demonstrated on the illustrative site layout

plan, is in stark contrast with the existing dwellings surrounding the site, within and outside of the settlement boundary and the 'Arcadian Settlement', as described above.

- 5.4.17 There are examples of smaller units of residential accommodation within Woodham Mortimer, although they are not the most common form of residential development within the village. The appearance of proposed bungalows in isolation is not considered to be wholly out of keeping with the existing dwellings located within the adjacent settlement. However, the proposed concentration of housing populating the western side of the site, is considered to significantly worsen the harm of the development arising from the inherent urbanisation and domestication.
- 5.4.18 Indicative landscaping namely, boundary hedges and tree planting across the site and an area of public open space, complete with a play area and a car park has been shown. Whilst the landscaping would provide some visual mitigation to the wider area and the area of public open space would be a welcome addition to the site, the play area and car park are considered to add to the urbanisation of the site and it is not considered to outweigh the harm identified above.
- 5.4.19 The LPA is no longer able to meet a deliverable supply of homes that is in excess of five years. However, the significant detrimental impact the proposal would have on the rural character of the area and the intrinsic beauty of the countryside and the resulting environmental harm would significantly outweigh the benefits arising from the provision of additional residential dwellings.
- 5.4.20 Having regard to the above assessment it is considered that the proposed development would have a significant visual impact on the site and surrounding area particularly given the visual prominence of the site. The development would represent the encroachment of built form into the rural site. The layout of the access roads, namely the large cul-de-sac arrangement, is in stark contrast to the existing development within Woodham Mortimer and is considered to contribute to the harm of the proposal. Therefore, the proposal is considered to be to the detriment of the character and appearance of the site and the surrounding rural area contrary to policies S1, S8, H4 and D1 of the approved MDLDP and guidance contained within the NPPF.

5.5 Impact on Historic Interest of Listed Buildings

- 5.5.1 The application site is adjacent to the listed building Salters Folly which is grade II* listed building. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. In the terminology of the NPPF, the Council must consider whether the proposal will 'harm' the listed building's 'significance'. Similar advice is contained within policy D3 of the LDP.
- 5.5.2 Salters Folly is located around 35m from the south east corner of the application site. Given the separation distance and the intervening vegetation it is not considered that the proposal would harm the setting or significance of Salter's Folly. Therefore, there is no objection at this stage, in terms of the impacts on the nearby heritage assets in accordance with the NPPF and policy D3 of the approved MDLDP.

5.6 Impact on Residential Amenity

- 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 application is outline in nature, with matters relevant to the impact of the development on the neighbouring residential occupiers, such as scale, appearance and layout, being reserved for future consideration. Although it should be noted that there is little scope for the broadscale layout to be amended, given that if this outline application were to be approved the access arrangements include the internal road layout within the site. Therefore, the siting of the estate roads will largely dictate the layout of the site. Nevertheless, given that the matters mentioned above are subject to submission and revision and considering the limited level of information provided with the application, it is not possible to fully assess the impact of the proposal on residential amenity.
- 5.6.3 Notwithstanding the above, it is clear from the submitted information that the proposed development would result in up to 25 dwellings, which will inevitably increase levels of activity on site in comparison to the existing use. The site abuts residential development to the west and east. On that basis, the proposed residential development would result in a use that is compatible in terms of amenity with the adjoining residential character of the area and thus, it would not adversely impact upon the amenities of the neighbouring occupiers in that respect.
- 5.6.4 Given the location of the access route within the site, it is likely that the built form of the development would be largely concentrated on the western side of the site. Therefore, the most effected existing residential properties are likely to be the four residential dwellings to the west of the site, the rear gardens of these dwellings back on the application site.
- 5.6.5 The MDDG states that where new development backs on to the rear gardens of existing housing, the distances between buildings should be 25m (C 07 Residential Amenity). The indicative layout shows that the dwellings which are located adjacent to the western boundary can achieve a back to back distance in excess of the required 25m. However, this would need to be fully assessed at the reserved matters stage when the layout is fully known. However, having regard to the distances that can be achieved and the single storey nature of the proposed dwellings it is considered that the scheme could be designed to minimise any unacceptable impacts to the neighbouring occupiers in terms of overlooking, a loss of light or a dominating impact. It is therefore considered that an appropriate layout could be produced so that the amenities of the neighbouring occupiers are not detrimentally impacted.

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.
- 5.7.2 The proposed development is outline in nature, with the matter of access for consideration, at this stage.

Access and Highway Safety

- 5.7.3 The existing access to the site is taken from Burnham Road and is located at the eastern end of the site frontage. It is proposed to retain and upgrade the existing access point to serve the proposed dwellings. Essex County Council Highways Authority (ECC) has raised no objection to the proposed access to the development subject to conditions, which will be imposed should the application be approved.
- 5.7.4 The applicant has provided information within the planning statement in relation to the trip generations in respect of the existing and proposed use. ECC Highways Authority has confirmed that although they are not in full agreement with some of the trip generation calculations they are satisfied that the proposed development is unlikely to generate as many trips as the existing use of the site when fully operational. Therefore, in terms of access and highway safety, no concerns are raised.
- 5.7.5 ECC Highways Authority has requested a condition in relation to the provision, implementation and distribution of a Residential Travel Information Pack to be provided to the future occupiers of the site for sustainable transport options, which should include six one day travel vouchers for use with the relevant local public transport operator. Due to the financial implication, this would need to be secured via a planning obligation. In the absence of a signed legal agreement this is unable to be secured.

Parking Provision

- 5.7.6 The proposed dwellings would provide one and two bedrooms. The recommended car parking provision for a one-bed dwelling is 1 car parking space and the recommended provision for a two-bed dwelling is 2 car parking spaces.
- 5.7.7 The indicative layout plan submitted demonstrates that each plot could be served by two car parking spaces and the demonstrated bay sizes are in line with the recommended bay size of 2.9m by 5.5m. Therefore, no concerns in respect of car parking provision are raised at this time. However, this would be a matter to be fully considered at a reserved matters stage.

Proposed Cycle Path and Public Right of Way

- 5.7.8 ECC Highways Authority has raised concerns in respect of the proposed cycle path shown within the development, which is proposed to connect to Footpath 25. The proposal would not be permissible in law unless the footpath was upgraded in status to a bridleway via a Section 25 Creation Agreement or via a Cycle Track Conversion Order. However, this approach has been advised against due to safety concerns relating to poor visibility along the path and the narrow width in certain places and the lack of safe waiting, the use of the path for cycling would present a hazard to pedestrians. The PROW team have confirmed that they would not support nor effect the change in status of this PROW from a footpath to bridleway and would not support the connection within the development of a cycle-route which would encourage that use.
- 5.7.9 The applicant has been advised in respect of the above comments and their response / any amendments will be provided via the Members' Update.
- 5.7.10 It is considered that this concern can be negotiated and amended and therefore, this would not form a reason for refusal, at this stage.

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 Maldon Design Guide 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 25 m² for flats.
- 5.8.2 The proposed development is outline in nature, with matters of layout, scale, appearance and landscaping reserved for future consideration.
- 5.8.3 The proposed dwellings would provide one and two bedrooms. Therefore, the private amenity area to serve each dwelling should be a minimum of 50m². The indicative layout plan submitted demonstrates that each plot could provide an amenity area in excess of 50m². Therefore, no concerns in respect of private amenity space are raised at this time. However, this would be a matter to be fully considered at a reserved matters stage.

5.9 Flood Risk and Drainage

- 5.9.1 Policy D5 of the LDP sets out the Council's approach to minimising flood risk. Policy S1 requires that new development is either located away from high risk flood areas or is safe and flood resilient when it is not possible to avoid such areas.
- 5.9.2 The proposed development is located in Flood Zone 1; thus, not in an area at risk of tidal or fluvial flooding. However, the application is more than 1 hectare in size and should be accompanied by a flood risk assessment, from reviewing the information submitted with the application it appears that a flood risk assessment has been prepared and a copy of this has been requested and the Lead Local Flood Authority (LLFA) will be re-consulted once it is received.
- 5.9.3 Given the lack of a flood risk assessment the LLFA has issued a holding objection. However, it is considered that this is likely to be overcome given the assessment of the Flood Risk Assessment and associated information submitted at the time of the previous application (20/00675/OUT). The previous assessment was as follows:

'[The application] is accompanied by a Flood Risk Assessment dated February 2020, which includes details of how surface water would be managed.

The Lead Local Flood Authority were consulted on the application and following initial concerns in relation to the lack of discharge rates, the Flood Risk Assessment was updated (August 2020), resulting in the removal of the objection.

The Lead Local Flood Authority have confirmed that the proposed development will only meet the requirements of the National Planning Policy Framework if the measures as detailed in the Flood Risk Assessment and the documents submitted with this application are implemented as agreed. Therefore, if the application is approved a condition to ensure the necessary measures are undertaken, should be imposed.'

- 5.9.4 The outcome of the request for additional information and re-consultation with the LLFA will be provided via the Members' Update.

5.10 Nature Conservation and Biodiversity

- 5.10.1 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.*'
- 5.10.2 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.
- 5.10.3 Policy N1 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. LDP Policy N2 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.
- 5.10.4 The application has been accompanied by a Preliminary Ecological Assessment and Bat Roost Assessment dated September 2020. The Ecology Consultant has assessed the information and raised no objection to the proposal, subject to biodiversity mitigation and enhancement measures, which can be secured via a condition, should the application be approved. Therefore, no concerns in this respect are raised.
- 5.10.5 In terms of off-site impacts, Natural England (NE) has advised that this development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. NE advise that Maldon District Council (MDC) must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.
- 5.10.6 NE has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'zones of influence' of these sites cover the whole of the Maldon District.
- 5.10.7 NE anticipate that, in the context of the LPA's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these zones of influence constitute a likely significant effect on the sensitive interest features of these designated site through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all

new dwellings (except for replacement dwellings), Houses in Multiple Occupation (HMOs), student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.

5.10.8 Prior to the RAMS being adopted, NE advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) – NE has provided a HRA record template for use where recreational disturbance is the only HRA issue.

5.10.9 As the proposal is for less than 100 houses and is not within or directly adjacent to one of the designated European sites, NE does not provide bespoke advice. However, NE's general advice is that a 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 and has currently been set at £127.30 per dwelling.

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

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

Is the development within the zone of influence (Zoi) for the Essex Coast RAMS with respect to the previously listed sites? Yes

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

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

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

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

Summary of Appropriate Assessment - as a competent authority, the Local Planning Authority 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 Natural England's advice, it is considered that mitigation, in the form of a financial contribution of £ 3182.50 is necessary. Whilst the applicant has expressed that they are willing to enter into an agreement to secure the required mitigation given that a signed S106 Agreement has not been submitted to support the application the mitigation is not secured.

5.10.11 Based on the lack of secured mitigation through RAMS the proposal would be contrary to policies S1, D1, N1 and N2 of the LDP and Government advice contained in the NPPF.

5.11 Other Matters

Public Open Space and Local Equipped Area of Play (LEAP)

- 5.11.1 It is noted that an area of public open space and Local Equipped Area of Play (LEAP) is proposed to be provided within the eastern part of the application site. However, the accurate location of the LEAP would be subject to the submission of further details at a reserved matters stage. The standards for a LEAP are provided on page 40 of the adopted "Green Infrastructure Strategy for Maldon District" (October 2018). These require it to be located within a walking time of five minutes from the new homes, provide 5 play types, seating, litter bins and a notice board, be fenced with two pedestrian gates and have a minimum activity zone of 400sqm. The details of the proposed LEAP would be required to be agreed through a legal agreement and should be part of a future reserved matters application. Although the applicant has expressed that they would be willing to enter into a S106 agreement to securing this necessary provision, it is noted that in the absence of such agreement, the impact of the development and its future needs would not be able to be secured and thus, an objection is raised in that respect.

Archaeology

- 5.11.2 The Historic Environment Officer at Essex County Council has confirmed that the site is located within an area of historic environment potential. The Historic Environment Characterisation assessment for Maldon District establishes that the site falls within Historic Environment Characterisation Zone 7.2, which has moderate significance for the Historic Environment.
- 5.11.3 The applicant has confirmed that should the application be approved an archaeological assessment by an accredited archaeological consultant will be submitted to the LPA prior to any works, with a programme of the archaeological fieldworks to be undertaken. As archaeological features and deposits are both fragile and irreplaceable, should the application be approved full archaeological conditions should be imposed in line with the guidance set out within the NPPF.

Contamination

- 5.11.4 The Council's Environmental Health department have advised that due to the northern end of the driving range being levelled with an unidentified fill; contaminated land conditions should be imposed, if the application were to be approved.

Noise

- 5.11.5 The indicative layout plan shows that dwellings would be located in close proximity to Burnham Road (B1010) which is heavily used by vehicles. Whilst it is noted that the layout is a reserved matter, given the proximity of the indicative dwellings to the road, it is recommended that should the application be approved a condition to ensure that a noise assessment is submitted with the reserved matters application, should be imposed.

Trees

- 5.11.6 The Council's Tree Consultant has not provided comments under the terms of this application. However, at the time of the previous application they advised that *'A tree report in accordance with BS5837:2012 is required to assess the impact the proposal will have on the trees and details of how trees to be retained will be suitably*

protected and worked around. Therefore, it is considered that should the application be approved a condition should be imposed to ensure the information is submitted for approval.

NHS Property Services

5.11.7 The NHS Property Services Planning Policy Officer has confirmed that the proposed development would impact GP practices which currently do not have the capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 60 new residents and subsequently increase demand upon existing constrained services. However, the impact of the proposed development on healthcare facilities could be mitigated via a financial contribution which has been calculated at £9,430. The applicants have not confirmed their willingness to enter into an agreement in this respect. However, they have been made aware of the request and their comments will be provided via the Members' Update.

6. ANY RELEVANT SITE HISTORY

- **20/00675/OUT** - Outline planning permission with the matter of access for consideration is sought for the demolition of the building and replacement of the driving range and pitch & putt with 25 new one and two-bedroom detached and semi-detached elderly persons/disabled bungalows. – Refused:16.10.2020
- **17/00293/SCR** - Request for a Screening Opinion to determine the requirement for an Environmental Impact (EIA) for residential development for 8No. two-storey detached dwelling houses and associated garages, lay out parking, amenity areas, estate road, footpaths landscaping and foul and surface water drainage infrastructure and alter access onto Burnham Road. EIA Not Required: 15.03.2017
- **17/00286/OUT** - Demolish building and cease driving range and pitch and putt uses. Erect 8No. two-storey detached dwellinghouses and associated garages, lay out parking, amenity areas, estate road, footpaths landscaping and foul and surface water drainage infrastructure and alter access onto Burnham Road (B1010). – Refused: 28.06.2017

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Woodham Mortimer And Hazeleigh Parish Council	Support: There does not appear to be any significant difference to the previous application (20/00675) to which the Council raised no objection, other than the inclusion of a public open space which is welcomed by the Council. Given its previous comments of similar applications at the site Cllrs support the	Noted.

Name of Parish / Town Council	Comment	Officer Response
	application.	

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Ecology Consultant	No objection subject to conditions.	Noted and discussed within section 5.10 of this report.
SUDS	Holding objection.	Noted and discussed within section 5.9 of this report.
Essex County Council Highways Authority (ECC)	No objection to the proposal has been raised subject to conditions and a planning obligation. However, concerns in relation to the cycle path connecting to an existing PROW have been raised.	Noted and discussed within section 5.7 of this report.
Natural England	The site lies within a zone of Influence for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).	Noted and discussed within section 5.10 of this report.
Essex Fire and Rescue	No objection.	Noted.
NHS Property Services	Financial contribution requested, and concerns raised in relation to the loss of a sports facility.	Noted and discussed within section 5.2 and 5.11 of this report.
Highways England	No objection.	Noted.
Anglian Water Services	No comment.	Noted.
Lead Local Flood Authority	Holding objection	Noted and discussed within section 5.9 of this report.
Archaeological Consultant	No objection subject to conditions.	Noted and discussed within section 5.11 of this report
Essex Police Designing Out Crime	Whilst there are no apparent concerns with the layout to comment further we would require the finer detail such as the proposed	This information would be supplied at reserved matters stage, should the application be approved.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	lighting, boundary treatments and physical security measures.	

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions.	Noted.
Conservation Officer	No objection.	Noted and discussed within section 5.5 of this report.
Housing Department	Strategic Housing Services supports this Application that would assist in meeting the Housing needs of the district. Should the Planning Officer recommend this Application for approval Strategic Housing Services would not object to the proposal on condition a Commuted Sum is agreed to the satisfaction of the council.	Noted and discussed within section 5.3 of this report.

7.4 Representations received from Interested Parties

7.4.1 1 letters of support has been received and summarised below:

Supporting comments	Officer response
As a resident with young children I support the new open space and play area.	Noted.
The size of the properties would be good for first time buyers.	Noted.
Given the well-publicised problem Maldon has with its five year housing supply, this development should be supported.	Noted.

8. REASONS FOR REFUSAL

1. The application site is in an unsustainable and rural location and remote from essential support facilities and community services; is inaccessible by a range of transport modes and is located where the need to travel would be maximised and the use of sustainable transport modes would be minimised and would therefore represent an unsustainable form of development, failing in relation to the social

strand of sustainability. Therefore, the proposal conflicts with the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8 and T2 of the Maldon District Local Development Plan.

2. The proposed development would fundamentally alter the open character of the south western edge of the village. The provision of twenty-five unjustified residential dwellings on this site currently used as golf driving range / pitch and putt would fail to provide visual enhancement to the wider rural locality, representing the encroachment of built form into the rural site and sprawl of development into the countryside. The layout of the access road is in stark contrast to the existing development within Woodham Mortimer and is considered to contribute to the harm of the proposal. Therefore, the proposal fails on the environmental stand of sustainability, in conflict the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8, D1, and H4 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.
3. The proposed residential development would result in the unjustified loss of an employment use, community facility, tourism facility and sports and leisure facility. It has not been satisfactorily justified or evidenced that the sites present use significantly harms the character and amenity of the area, the proposed use would be a greater benefit to the community, or that the site has been marketed for sale or rent and that there is a confirmed lack of interest. Further, it has not been demonstrated that the existing use is no longer viable, that there will be no significant loss of tourism facilities or that the land is surplus to requirements to meet local need or that alternative provision in the locality can meet the needs. Therefore, the proposal conflicts with policies E1, E3, E5 and N3 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.
4. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the development makes no contribution for affordable housing to meet the identified need in the locality, the necessary financial contribution towards Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy and NHS services, the management and maintenance of the public open space and would fail to secure the provision of residential travel packs for sustainable modes of transport, required for the future occupiers of the site contrary to Policies S1, D1, H1 and I1 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.