



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
13 OCTOBER 2021**

<b>Application Number</b>	<b>21/00193/FULM</b>
<b>Location</b>	Land Adjacent Cliffords Farm, Burnham Road, Althorne, Essex
<b>Proposal</b>	Erect 13No. dwellings comprising 8No. one and two-bedroom affordable apartments in 2 x two-storey buildings, and 5No. 4/5 bedroom two-storey detached houses with garages, form three new vehicular accesses onto Burnham Road, private drives, vehicle parking and manoeuvring areas and gardens, and lay out hard and soft landscaping
<b>Applicant</b>	Mrs Georgina McHugh
<b>Agent</b>	Mr Stewart Rowe - The Planning And Design Bureau Ltd
<b>Target Decision Date</b>	15.10.2021
<b>Case Officer</b>	Louise Staplehurst
<b>Parish</b>	<b>ALTHORNE</b>
<b>Reason for Referral to the Committee / Council</b>	Major Application

**1. RECOMMENDATION**

**APPROVE** subject to the applicant entering into a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the planning obligations and subject to conditions as detailed in Section 8.

**2. SITE MAP**

Please see below.



### **3. SUMMARY**

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

3.1.1 The application site forms part of the northern area of an agricultural field and lies on the southern side of Burnham Road, Althorne, opposite The Three Horseshoes public house. To the west of the site and on both sides of the highway are detached dwellings which lie within the defined settlement boundary of Althorne. Burnham Road comprises the main highway linking Althorne with Burnham-on-Crouch to the east and the wider District to the west. The main settlement of Althorne lies to the west and northwest of the site.

3.1.2 The site is currently part of an agricultural field with an existing field access in the northwest corner and bounded to the north by a mature field hedgerow. The common boundary to the east which is shared with the dwelling known as Cliffords Farm comprises a row of mature fir trees.

#### **Proposal**

3.1.3 The application proposes the construction of 13 no. dwellings in total; 8 affordable dwellings and 5 detached market dwellings. The 8 affordable units would be in the form of two blocks of flats in the western part of the site, with 4 units in each building. The detached market dwellings would front the road in the eastern part of the site.

3.1.4 Three accesses are proposed, one to the flats, one to the market dwellings and a separate one is proposed between the market and affordable housing which will be used to access the agricultural fields to the south of the site. A footpath is proposed at the site frontage to join to the existing pedestrian network. A large proportion of soft landscaping is proposed within the site however no specific details of planting have been provided.

3.1.5 The housing mix will be as follows:

- 4 one-bedroom units (affordable)
- 4 two-bedroom units (affordable)
- 5 four-bedroom units (market)

#### **Flat building 1 and 2 (Affordable Housing)**

3.1.6 The flat buildings will have a maximum width of 20 metres, a depth of 12.3 metres, an eaves height of 5.6 metres and a ridge height of 10 metres. There will be both a one-bedroom and a two-bedroom unit at ground floor and first floor level, 4 units in total in each building. Both upper floor flats will have access to their own private terrace. Each building will be of a cross gable design with access to the flats via a main shared front door. The proposed materials consist of brick and render with clay tiles.

3.1.7 Parking will be positioned in a communal area to the front and side of the buildings, with a large shared amenity area (600sqm for flat building 1 and 600sqm for flat building 2) for each building to the south. There will be a shared refuse and cycle store within the northern corner of the site, measuring 6.7 metres wide, 4 metres deep, 2.2 metres high to the eaves and 4.6 metres high overall.

#### **Plots 1-5 (Market dwellings)**

3.1.8 Four different house types are proposed for the five market dwellings.

Plot 1 – House type A – 4 bedrooms

3.1.9 The proposed dwelling to occupy plot 1 will measure 20 metres in width in total including the double garage, and 15 metres in depth in total, with an eaves height of 5.3 metres and a ridge height of 9.1 metres. The main part of the dwelling will have a gable roof with the roof slope fronting the road, with an M-shaped roofline to the rear. The single storey double garage will be attached on the western side of the dwelling. Materials will consist of render, brick and stained and painted weatherboarding and clay tiles for the roof.

3.1.10 It will have a double garage, dining room, snug, utility room, toilet and kitchen/family area at ground floor level and 4 bedrooms and 1 bathroom and 3 en-suites at first floor level.

3.1.11 Two parking spaces will be available in the garage as well as at least one more space on the driveway. Amenity space will be located to the south and will measure over 600sqm.

Plot 2 and 4 – House type B – 4 bedrooms

3.1.12 The proposed dwellings to occupy plot 2 and 4 will measure 16.9 metres in width in total and 15.8 metres in depth in total, with an eaves height of 5.4 metres and a ridge height of 9.4 metres. It will be of a cross gable roof design, with smaller gable projections. There will be a first-floor terrace and balcony to the rear. Materials will consist of render, brick and stained and painted weatherboarding and clay tiles and slates for the roof.

3.1.13 At ground floor level, there will be a double garage, toilet, gym, utility room, living room, office and kitchen/dining room. At first floor level, there will be a master suite with bathroom and dressing area, 3 further bedrooms, 2 with en-suites and a bathroom.

3.1.14 The double garage will house two cars, with space for two more on the drive. The garden area will measure over 400sqm on plots 2 and 4.

Plot 3 – House type C – 4 bedrooms

3.1.15 The proposed dwelling to occupy plot 3 will measure 16.8 metres in width in total and 15.7 metres in depth in total, with an eaves height of 5.5 metres and a ridge height of 9.3 metres. It will be of a cross gable roof design, with smaller gable projections. There will be a first-floor terrace and balcony to the rear. Materials will consist of render, brick and stained and painted weatherboarding and clay tiles for the roof.

3.1.16 At ground floor level, there will be a garage, toilet, snug, office, kitchen, dining room, utility room and gym. At first floor level, there will be a master suite with bathroom and dressing area, 3 further bedrooms, 2 with en-suites and a bathroom.

3.1.17 The double garage will house two cars, with space for two more on the drive. The garden area will measure over 400sqm.

Plot 5 – House type D – 4 bedrooms

- 3.1.18 The proposed dwelling to occupy plot 5 will measure 16.8 metres in width in total and 12.3 metres in depth in total, with an eaves height of 5.5 metres and a ridge height of 8.8 metres. The dwelling will have a cross gable roof form with bay window on the front. Materials will consist of render, brick and stained and painted weatherboarding and clay tiles for the roof.
- 3.1.19 There will be a dining room, snug, utility room, toilet, lounge, kitchen and living area at ground floor level. At first floor, there will 4 bedrooms, two en-suites, shared each by two bedrooms, a bathroom and a home office which could be used as a fifth bedroom.
- 3.1.20 The double garage will be detached and will house two cars, with space for two more on the drive. The garden area will measure 700sqm.

## **3.2 Conclusion**

- 3.2.1 The development has been assessed as being acceptable in principle, overall, taking into account the substantial benefits of the proposal which would outweigh the conflict that the development would have with the Development Plan. In particular, the volume of affordable housing proposed, in a locality within the district where it has previously been difficult to deliver affordable housing, would weigh heavily in favour of the development.
- 3.2.2 The development is not anticipated to cause material harm to the amenity of the occupiers of existing residents, highway safety or nature conservation. The development has also been found to be satisfactory in terms of ecology and drainage. The proposed development would have an acceptable visual impact and the design of the dwellings and flats would be in keeping with the area. In addition, provision for adequate levels of parking will also be made. The proposal would therefore accord with the policies set out within the Local Development Plan (LDP) and the National Planning Policy Framework (NPPF).
- 3.2.3 The applicant has agreed to enter into a Section 106 Agreement to address matters of affordable housing and RAMS.

## **4. MAIN RELEVANT POLICIES**

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

### **4.1 National Planning Policy Framework 2021 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
- 55-58 Planning conditions and obligations
- 60-80 Delivering a sufficient supply of homes
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 174-188 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D5 Flood Risk and Coastal Management
- H1 Affordable Housing
- H2 Housing Mix
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity
- I1 Infrastructure and Services

#### **4.3 Relevant Planning Guidance / Documents:**

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Maldon District Design Guide SPD (MDDG)
- Maldon District Vehicle Parking Standards (VPS) SPD
- Althorne Village Design Statement

### **5. MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.

5.1.2 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five-Year Housing Land Supply (5YHLS).

5.1.3 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 73)*

- 5.1.4 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).
- 5.1.5 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’.
- 5.1.6 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.
- 5.1.7 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.
- 5.1.8 Paragraph 79 of the NPPF states that:
- 5.1.9 *‘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 Althorne is classed as a small village containing few or no services and facilities, with little access to public transport with very limited or no employment opportunities. Therefore, it is considered that any future occupiers of the dwellings would be required to travel to access day to day facilities, work and education. There is a bus stop opposite Mansion House Farm, just east of the site. However, this appears to serve only school buses. Althorne has a train station however access to this is down an unlit track with no footpath and therefore it is not considered to be a viable alternative day to day transport option to the private car. There are therefore concerns over the accessibility of the site.
- 5.1.11 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Council cannot demonstrate achieving a 5YHLS. The proposed development proposes a substantially higher level of affordable housing (62%) than the requirement of 40%. The Council's strategic approach to delivering housing has been to provide the vast majority in the form of large-scale strategic development; this has resulted in the affordable housing provision to be predominately in these locations and does not necessarily meet the more localised need for affordable housing across the District. There has been no affordable housing delivered in Althorne for a number of years and as discussed further below there is an accepted need for affordable units in this part of the District. Therefore, it is considered that the benefits of the development, delivered through the significant over provision of affordable housing, outweighs any harm.
- 5.1.12 It is noted that public comments have made reference to applications in the area which have been refused due to unsustainability, inaccessibility and the impact on the character of the area (specifically 17/01010/FUL, 21/00300/FUL and 20/00725/FUL) and the previous refused application on the site 14/00046/OUT. All history of the site and surrounding area is a material consideration in the determination of the application and has been taken into account. It is acknowledged that there have been many applications for residential development refused on these grounds within Althorne, and also supported at appeal, it must be noted that in most instances these applications were for a relatively small level of market housing and none of these applications proposed an over-provision of affordable housing. The report acknowledges that the site is not located within an accessible location and that there would be some impact on the character of the area from the development; however, it also considers in section 5.11 that the benefits of the development in terms of the contribution to the 5YHLS and affordable housing provision, significantly outweigh the harm in relation to the accessibility of the site and the character of the area.
- 5.1.13 Regarding the appeal decision northeast of the site at Mansion House Farm for 48 dwellings (reference 16/00171/OUT - APP/X1545/W/16/3152730); this was dismissed due to the location of the site and the impact on the character of the area. The Inspector considered that the benefits of the proposal would not outweigh the harm. However, it is noted that the Council could demonstrate a 5YHLS at this time and therefore development outside of a settlement boundary would not be supported. Furthermore, affordable housing was proposed in line with the policy requirement, and not in excess of this requirement. This current application proposed an over-provision of affordable housing and the Council is significantly under achieving a 5YHLS and therefore it is considered the benefits of the proposal greatly outweigh the harm. In addition, the proposal would have a lesser impact on the character of

the area and relate better to the pattern of development in the area (discussed further in section 5.4), compared to the proposal at Mansion House Farm.

- 5.1.14 Having regard to the above assessment, it is considered that the principle of the development can be found acceptable.

## **5.2 Housing Need and Supply**

- 5.2.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the 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.
- 5.2.2 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.
- 5.2.3 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District, as a whole, as well as sub-areas across the District which are considered alongside the housing market geography in this report. The LHNA is wholly compliant with the latest NPPF and Planning Practice Guidance, and provides the Council with a clear understanding of the local housing need in the District and demographic implications of this, the need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build housing.
- 5.2.4 The proposal would provide 4 one-bedroom units, 4 two-bedroom units and 5 four-bedroom units. The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for 2 and 3 bed dwellings; specifically, 25-35% 2-beds and 40-50% 3-beds. Whilst the development does not provide any 3-bedroom units, it does provide a high level of smaller units, contributing towards the housing mix.
- 5.2.5 Also, importantly, it must be noted that the application was submitted prior to the LHNA being published, where the Strategic Housing Market Assessment (SHMA) stated the greatest need was for one and two-bedroom units and the submission is compliant with the housing mix required at this time. Therefore, it would be unreasonable to raise an objection to the housing mix given the mix matched the requirement at the time of submission.

## **5.3 Affordable Housing**

- 5.3.1 Policy H1 requires that all housing development of more than 10 units or 1,000sqm will be expected to contribute towards affordable housing provision to meet the identified need in the locality and address the Council's strategic objectives on affordable housing. The site falls within the sub-area of Rural South and therefore, the requirement towards affordable housing has been set at 40% of the total amount of housing provided.

- 5.3.2 The application proposes 13 dwellings and therefore 6 affordable units of accommodation need to be provided in order for the proposal to be policy compliant. The application however proposes 8 affordable units, 62% of the total amount of housing provided, which is in excess of the policy requirement.
- 5.3.3 The Housing Service have been consulted on this application and consider that the Council's strategic housing policies have directed affordable housing provision towards Heybridge, Maldon and Burnham-on-Crouch. The Housing Service has a high demand for affordable residential units across the whole district and would therefore support the principle of affordable housing outside of the aforementioned locations. Whilst there is some affordable housing in Althorne, this is very limited; there is a massive shortfall of affordable housing both across the District and this area. The Housing Register contains a significant number of people interested in affordable accommodation in Althorne. Whilst there is significantly more than 8 units of affordable housing required, the provision of affordable housing is highly necessary in Althorne and therefore the Housing Service strongly support the proposal. Furthermore, the fact that the applicant is proposing well above the policy requirement for affordable housing significantly weighs in its favour and adds additional support for the proposal from Housing Services.
- 5.3.4 All the affordable units would comply with the Nationally Described Space Standards (NDSS) as 1-bed 2-person units and 2-bed 2-person units.
- 5.3.5 Policy H1 states that *"Affordable housing should be provided on-site, either through free serviced land provided to a registered provider or constructed affordable dwellings to be sold to a registered provider upon completion to provide the number, size, type and tenure of affordable homes required by the Council's policies having regard to the SHMA, the Council's adopted Affordable Housing Guide, and the Council's Housing Strategy. In exceptional circumstances the Council may consider accepting 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. Commuted sums will also be charged for an incomplete number of affordable units provided on site."*
- 5.3.6 The proposed affordable housing would be provided in full on-site, therefore, complying with Policy H1 of the LDP. The required on-site affordable units would be secured through a Section 106 (S106) agreement.

#### **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
- 5.4.4 Policy H4 states that “all development will be design-led and will seek to optimise the use of land having regard to the following considerations:
- 1) The location and the setting of the site;
  - 2) The existing character and density of the surrounding area;
  - 3) Accessibility to local services and facilities;
  - 4) The capacity of local infrastructure;
  - 5) Parking standards;
  - 6) Proximity to public transport; and
  - 7) The impacts upon the amenities of neighbouring properties.”
- 5.4.5 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.4.6 The Althorne Village Design Statement (VDS) aims to encourage better quality design in villages, which respects the local identity. The Althorne VDS guidance for the Burnham Road area emphasises the importance of the rural character of this area. Guidance in the VDS indicates that weatherboarding, brick, render, clay tiles and slates are all characteristic of the area. Guidance for development includes suggestions that buildings should respect the scale and design of adjacent properties, wherever possible new roofs should be pitched, and boundary treatments should such as traditional fencing, railings and walls should be encouraged.
- 5.4.7 The application site lies outside the defined settlement boundaries. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.4.8 The development would be highly visible from Burnham Road to the north, as the dwellings would be sited towards the road frontage. The site is currently an undeveloped field and therefore the proposal would have an impact on the character

of the area. However, dwellings fronting onto Burnham Road forms the prevailing pattern of development within the area and therefore, whilst this layout would be more visible from the road than, for example, a cul-de-sac style development, the proposal would relate well to the alignment of built form within the area. Furthermore, the development would be spacious in nature with the dwellings set in large plots, the buildings set back over 20 metres from the road and substantial amounts of landscaping and vegetation proposed. In addition, additional landscaping would enhance the existing vegetation and help to assimilate the development into its setting. It is considered that the level of development, the proposed soft landscaping and appearance of the development are considered to be appropriate for a semi-rural location.

- 5.4.9 In terms of the interrelationship of the units it is considered that a fairly strong building line has been followed by most of the units facing the main road, creating a distinct road edge. This is considered to result in a consistent approach in terms of the urban grain where properties front the road. Overall it is considered that the orientation of the residential units achieves an acceptable layout throughout the site.
- 5.4.10 The development would consist of two two-storey buildings containing a total of 8 flats on the western side of the site, and 5 detached dwellings towards the eastern side of the site. The dwellings surrounding the site are two-storey and therefore the proposed development would be of a suitable scale to reflect the bulk of nearby dwellings. In terms of their roof design, the properties would be a mixture of hipped and gable roofs creating cross-gabled designs, which reflects the character of the wider area.
- 5.4.11 In terms of the design of the individual dwellings, it is noted that different designs of houses and materials (brick, render, weatherboarding, pantiles, slates) have been incorporated into the development which offers a degree of visual interest, whilst retaining a relatively uniform style through similar fenestration, ridgelines and rooflines. The development is traditional in style; however, it also incorporates modern aspects such as glazing and terrace areas to the rear. Overall, the design of the development would be sympathetic to the mix of dwellings styles along Burnham Road.
- 5.4.12 The flatted buildings follow the ridgeline of the detached dwellings, also having similarly designed cross gable rooflines and fenestration patterns, with the same material palette proposed, ensuring a cohesive relationship between the affordable and market dwellings.
- 5.4.13 The proposed mix of materials of brick, render, timber weatherboarding, clay tiles, pantiles and slates, have been drawn from the Essex rural palette and would complement the rural character of the area. A condition has been imposed to ensure full details of materials are submitted prior to their use in the development to ensure they are of a suitable quality.
- 5.4.14 The construction of the cycle/refuse store and detached garage for plot 5 would reference the positioning of detached garages within the front driveways of surrounding developments along Burnham Road.
- 5.4.15 Policy H2 requires that the design and appearance of affordable housing is indistinguishable from market housing. The thrust of this policy requirement is not to ensure all housing units are designed exactly the same, but to ensure that there is no difference in the quality of each aspect of the development. It is accepted that the affordable housing, as it consists of 1- and 2-bedroom units, would have a different appearance to the market dwellings, however it is not uncommon for residential

developments to incorporate both flats and dwellings. The proposed development would be designed so that the affordable and market dwellings would relate well to each other in terms of their style similarity and would consist of the same palette of materials. Therefore, the development is considered to comply with the requirements of policy H2.

- 5.4.16 Parking for the market dwellings would be mostly contained within the garages and soft landscaping to the frontage of the site would soften the views of the parking area particularly for the flats. The site proposes a suitable proportion of landscaping to the frontage as well as within the communal garden and amenity areas for the detached dwellings, ensuring a sympathetic appearance when viewed in context of the rural area.
- 5.4.17 The vehicular access down the centre of the site to the fields to the south is considered acceptable in design terms.
- 5.4.18 Therefore, whilst it is noted that the proposed development would alter the nature of the application site which is currently an agricultural field, it is considered that due to the layout and the relatively low density of the development, the impact on the character of the area, when viewed from public vistas, would be acceptable. Taking into account the Council's lack of a 5YHLS, the significant need for affordable housing and the need to deliver additional housing outside the sites allocated within the LDP, it is considered that the proposal would, in relation to design and impact on the character of the area, be acceptable. It can be concluded that the development would bring benefits to the District that would outweigh any potential harm that the development would have to the character and beauty of the countryside and the locality more widely.

## **5.5 Impact on Residential Amenity**

- 5.5.1 The basis of Policy D1 of the 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). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.
- 5.5.2 The proposed development would increase the levels of activity at the site, by reason of the erection of a residential development on what currently comprises agricultural land. However, on balance, it is not considered that the proposed residential development of 13 units would have a materially harmful impact on the residential amenity of the existing neighbours, in terms of noise and disturbance, given the nature of the use, which is compatible with the use of the existing residential areas.
- 5.5.3 The western block of flats labelled 'flat building 1' on the submitted block plan 6812-1102-P2 would be located 4.6m from the western boundary shared with Cliffords Farm and 9.6m from the dwellings itself. Due to the separation distance and the fact there are no first-floor flank windows facing this neighbour, it is not considered that it would result in an unneighbourly form of development in terms of a loss of light or privacy.
- 5.5.4 The eastern dwellings on plot 5 would be located 6m from the eastern boundary shared with Southfield Lodge and 23m from the dwelling itself. Due to the separation distance, it is not considered that it would result in an unneighbourly form of development in terms of a loss of light. There would be two first floor windows on the flank elevation facing this neighbouring site, which are secondary windows serving bedrooms. Whilst they would not cause direct overlooking to the neighbouring

dwelling due to the separation distance, there would be some views of the neighbouring garden area from these windows and therefore a condition has been included to ensure they are obscure glazed and non-opening below 1.7 above floor level, to ensure the protection of the privacy of the neighbour.

- 5.5.5 There are two dwellings and a pub located opposite the site across the road; the two dwellings are located over 28 metres from the closest block of flats. The proposal would not have a harmful impact on these neighbouring sites due to the separation distance and the road between.
- 5.5.6 All other residential dwellings would be located a further distance away from the application site and thus, no greater impact is expected to be caused by the proposed development.
- 5.5.7 All 5 detached dwellings would be positioned suitably so that there would be no harmful impact on visibility or privacy to each other. The only first floor windows on the flank elevations adjacent to the other proposed dwellings serve bathrooms. To ensure there would be no visibility between these windows, a condition has been imposed to ensure these windows are obscure glazed and non-opening except for a top hung fanlight. There is some potential for overlooking however from the first-floor rear terrace of plot 2 of plot 1's rear garden; as such, a condition has been recommended below requiring a privacy screen in order to limit overlooking to an acceptable level. There would also be overlooking between plots 3 and 4 from their respective first floor rear terraces; as such, a condition has been recommended below requiring a privacy screen in order to limit overlooking to an acceptable level.
- 5.5.8 It is considered that the two blocks of flats would be positioned in a manner so that the occupiers would have a suitable level of privacy. Whilst there may be some visibility between each building, any views would be across the parking area and would not be at such a level to harm the amenity of the future occupiers.

## **5.6 Access, Parking and Highway Safety**

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

### *Access*

- 5.6.2 Access to the site would be gained off of Burnham Road to the north. There would be three accesses; one to access the affordable flats, one to access the market dwellings and one to access the agricultural fields to the south. A new pedestrian footpath is proposed along the front of the site to join onto the existing footpath.
- 5.6.3 Essex County Council Highways Authority (ECC) has not objected to the proposal but has raised some comments regarding the footpath location to join onto the existing pedestrian network, radius kerbs on the accesses, the access width needing to be 5.5 metres wide and the requirement to show vehicle tracking to show vehicles can enter and exit the site in a forward gear. The agent has submitted additional detail to address these comments. No further comment from ECC Highways has been received at the time of writing this report however their comments will be included in the Members' Update, should it be received.

### *Parking provision*

- 5.6.4 The Council's adopted VPS SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards are to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.6.5 The 4/5 bed dwellings are required to provide 3 parking spaces each. Each of the 5 detached dwellings has a double garage, which would measure in accordance with the adopted parking standards (6m wide by 7m deep) and would house 2 cars. There would also be space for at least one vehicle on each driveway, and therefore there would be sufficient parking for the market dwellings. A condition has been imposed to ensure that each plot has one electric charging point, in the interests of promoting electric vehicles in order to adapt to climate change. The development will also provide two visitor car parking spaces for the residential dwellings.
- 5.6.6 The flats require 16 parking spaces in total; 13 for the occupiers of the flats including one disabled space, and 3 visitor spaces. This requirement has been provided on the submitted site plan and therefore suitable parking would be provided. A condition has been imposed to ensure that 4 of the spaces, including the disabled space, has an electric charging point, in the interests of promoting electric vehicles in order to adapt to climate change.
- 5.6.7 Overall, having assessed the proposed parking plan it is considered that each dwelling and flat would be provided with a sufficient number of vehicle parking spaces and the parking bays measure to the requirements of the VPS.
- 5.6.8 In terms of cycle parking, the 5 detached dwellings have garages where bicycles can be stored, with further potential storage in their rear gardens.
- 5.6.9 The flats should have 13 cycle parking spaces. A refuse/cycle store has been shown within the north western corner of the site which would provide for 14 cycle spaces. A condition is suggested to ensure that a sufficient number of cycle parking spaces is delivered prior to the occupation of the development.

### **5.7 Private Amenity Space and Living Conditions of Future Occupiers**

- 5.7.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.
- 5.7.2 All 5 of the detached dwellings would have over 100 square metres of private amenity space, in accordance with the MDDG requirements.

- 5.7.3 In regard to flats, 25sqm of amenity space should be provided per unit. Each block of 4 flats would have access to a high level of communal amenity space, 600sqm for flat building 1 and 500sqm for flat building 2, which is well in excess of the required standard. In addition to this, the first floor 2 bedroom flat would have access to a 12sqm terrace and the first floor 1 bedroom flat would have an 8sqm terrace area.
- 5.7.4 Therefore, it is considered that the development would provide adequate outdoor amenity space that is capable of meeting the outdoor amenity space requirements of the future occupiers and it would comply with the minimum standards, as set out in the adopted MDDG.
- 5.7.5 All properties would be served by windows which would provide adequate light, outlook and ventilation to all habitable rooms. A good level of accommodation would be provided for the future occupiers of all proposed residential properties and on that basis, it is considered that the development would provide a good level of living environment to the future occupiers.
- 5.7.6 It is acknowledged that the Environmental Health (EH) team have requested a noise impact assessment be provided due to the application site being located opposite a pub 'Three Horseshoes'. They have stated that whilst there is no record of any noise complaints, their license hours for closing are until 2.00am Friday and Saturday and 1.00am during the week. The comments from EH have been noted however the proposed dwellings would be located over 50 metres from the pub and there are already dwellings within the area located along Burnham Road, at a similar distance to the proposed dwellings. Furthermore, the application site and the public house are separated by a road. There doesn't appear to be any planning history for the public house however their opening hours appear to be until 23:00 at the latest. It is therefore not considered that the public house would result in such a level of noise and disturbance that would justify the undertaking of a noise impact assessment, particularly due to the separation distance and being located across the road. Furthermore, a relationship such as this between residential dwellings and drinking establishments is not uncommon to that proposed as part of this application.
- 5.7.7 EH has also raised that the terrace areas in the flats may cause disturbance to other residents, however it is considered reasonable and common for terrace areas to be included in flatted developments. There is no evidence that the proposed terraces would lead to an unreasonable level of noise and disturbance above that which is expected in normal residential occurrences. The internal layout of buildings is a building regulation matter and not a planning consideration.
- 5.7.8 Having regard to the above comments, it is considered that the future residents of the development would have a satisfactory standard of living.

## **5.8 Drainage**

- 5.8.1 The application includes a Sustainable Drainage System (SuDS) assessment. The Lead Local Flood Authority (LLFA) has reviewed this assessment and submitted a holding objection to the granting of planning permission due to the following:
- 1 Verify the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753. Infiltration testing has not been undertaken but should be carried out and the test results for that should be provided.

- 2 Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- 3 Detailed engineering drawings of each component of the drainage scheme should be provided.
- 4 A final surface water drainage plan which details exceedance and conveyance routes, FFL and ground levels, manhole cover levels, invert levels, pipe dimensions and invert levels, and location and sizing of any drainage features should be provided.
- 5 A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

5.8.2 Following on from this consultation response, the agent has provided additional details to address the concerns by the LLFA. In relation to point 1, the additional details set out that infiltration testing is unnecessary as the infiltration potential at the site is extremely low. A 24 hour drain graph has been provided to address point 2. Points 3 and 4 can be addressed by planning condition. In relation to point 5, the drainage consultant does not consider this necessary at this stage as the layout has not yet been approved by the Council. They consider this can be dealt with via condition.

5.8.3 The LLFA has been re-consulted on the additional information. A consultation response has not been received at the time of writing this report, but their response will be included on the Members' Update, should it be received.

5.8.4 It is noted that Anglian Water has confirmed the foul drainage and sewerage system have capacity for these flows and therefore there are no objections in this regard.

## **5.9 Impact on Ecology and Biodiversity**

5.9.1 The application site does not fall within or in close proximity to nature conservation sites. However, policy N2 of the LDP states that "All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance." Conservation and enhancement of the natural environment is also a requirement of the NPPF.

5.9.2 The report concludes that 'the site has suitable habitats for nesting birds and Great Crested Newts and these habitats have the potential to be impacted by the development. The design proposals include the removal of the full extent of the hedgerow to facilitate the works, including a sewage pipe along the road side and access into the site. Replacement hedgerows are proposed along the road side, farm track and along the back of the properties, totalling approximately 380 m. Additionally, there will be habitat creation as part of the soft landscaping proposals, including amenity grass, gardens and tree planting. In order to increase the Development's biodiversity value, and to adhere to Government guidance set out in the National Planning Policy Framework 2021 (NPPF), a range of enhancement measures will be required.' Several mitigation and enhancement measures have been proposed including landscape proposals, bird boxes and suitable timings of work.

5.9.3 Following consultation with the Council's Ecological Consultant, a holding objection was submitted due to insufficient evidence to confirm that the proposal would not impact on Great Crested Newts. Following discussions with the agent and Ecology, the agent has agreed to enter into the District Level Licencing (DLL) Scheme as

mentioned in the response from Ecology. This means that the developer will pay to join the DLL meaning that they will not need to carry out their own surveys or plan or carry out mitigation work themselves. DLL schemes operate in certain parts of England to better protect great crested newts. An amended consultation response from Ecology states that they are happy with this approach and consider this sufficient to mitigate any impact, as long as an Impact Assessment and Conservation Payment Certificate (IACPC) document countersigned by Natural England (NE) is provided prior to the determination of the application. This report recommends approval of the application subject to this document being provided. A condition will be imposed to ensure no development commences until the developer has joined the DLL scheme in conjunction with NE and the relevant fee paid. The development will have to be undertaken in accordance with the DLL protocols.

- 5.9.4 It is noted that it is proposed to remove approximately 170 metres of hedgerow to facilitate the works including a sewage pipe and the accesses into the site. This hedgerow is likely to be a priority habitat; replacement hedging should be proportionate to the loss of the hedgerow to be removed. Ecology consider that sufficient hedgerow planting has been demonstrated on the proposed site plan and includes replacement hedgerows along the roadside, farm track and along the back of the properties, totalling approximately 380 metres. The replacement hedgerow should be planted in double staggered rows consisting of a mix of native species. This has been secured via condition.
- 5.9.5 The Ecology consultant recommends appropriate mitigation measures including bird boxes as outlined in the submitted Ecology report, and specific measures implemented during the construction phase, which has been sought via condition requiring a precautionary biodiversity method statement. A wildlife sensitive lighting strategy condition and a biodiversity net gain condition have also been imposed.
- 5.9.6 Having regard to the above, it is considered that the details included in the Ecology Impact Assessment are sufficient to secure that the development would not adversely impact on the existing ecological assets and habitats and subject to the implementation of the abovementioned enhancement measures, it would provide sufficient ecological enhancement as required by policy N2 of the approved LDP.
- 5.9.7 The Council's Tree Consultant has provided a response and has suggested a condition requiring a soft landscaping scheme to be submitted, which focuses on providing screening/softening on the street frontage with suitable tree and shrub species as well as elsewhere on the site. It should be ensured that the species are indicative of the surrounding landscape, provide seasonal amenity and habitat for wildlife. It is important that thought is given to ensure that tree species have sufficient space to develop into landscape features without potentially impacting on the properties in the future. This condition is considered to meet the six tests and has been imposed.

## **5.10 Ecology regarding development within the Zone of Influence (Zol) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)**

- 5.10.1 NE has produced 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 Maldon District Council (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 Zol of these sites cover the whole of the Maldon District.

5.10.2 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 Zol constitute a likely significant effect on the sensitive interest features of these designated sites 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.

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

5.10.4 The application site falls within the Zol for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.

5.10.5 As the proposal is for less than 100 houses (or equivalent) and 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.

5.10.6 To accord with NE's requirements, an 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 (Zol) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes - The planning application relates to 13 dwellings

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

Test 2 – the integrity test

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

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

5.10.7 As the answer is no, it is advised that a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse

effect on the integrity of the above European sites from recreational disturbance, when considered 'in combination' with other development. NE does not need to be re-consulted on this Appropriate Assessment.

5.10.8 It is noted that the Essex Coast RAMS has been adopted. A flat rate tariff of £127.30 per new dwelling is identified within the Essex Coast RAMS as the contribution to mitigate the impact of a new residential property. Therefore, as the proposal is for 13 dwellings, the fee is calculated at £1654.90. This contribution would be secured through a S106 agreement. Subject to a signed legal agreement, the development would comply with Policies S1, and I1 of the LDP and the NPPF.

## **5.11 Tilted balance**

5.11.1 It is important to recognise the balance between the Local Plan policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a 5YHLS. The tilted balance is engaged in this case and hence the local planning authority must give significant weight to the NPPF and its fundamental position of sustainable development which is the defining purpose of the planning system, as a material consideration.

5.11.2 The key priority within the NPPF, is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for an economic, social and environmental objective as set out in the NPPF.

5.11.3 Notwithstanding the considerations as contained in those paragraph's, it is incumbent on the LPA, where appropriate to consider, as a matter of general planning judgment, the site specific or scheme specific reasons for refusal. However, it does mean that planning applications submitted for land which is unallocated or located outside defined settlement boundaries, as set out in local plan policies, could no longer be refused on those grounds alone.

5.11.4 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall (with reasons), against the harm identified (if any) arising from the proposed development.

5.11.5 With regard to the 3 tests of sustainability, 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. Equally, there is no guarantee that the construction would be undertaken by local businesses, with locally sourced materials. Any economic benefits would therefore be considered nominal.

5.11.6 In social terms, although the proposal would not be located in a highly accessible location, the proposal would result in the provision of 13 dwellings, including 8 affordable housing units, which is an overprovision of affordable housing (62%). Due to the fact that the Council cannot demonstrate a 5YHLS, and that there is a high need for affordable housing, it is considered that the provision of 13 dwellings; with 8 being affordable, would be a significant benefit in terms of the housing supply.

5.11.7 In environmental terms, the site is not located in a highly accessible location and therefore there would be limited benefits in terms of reducing the use of private vehicles by increasing the use of public transport or cycling.

5.11.8 Overall, having regard to the above assessment, it is considered that the benefits of the proposal in terms of the overprovision of affordable housing (62%) would significantly outweigh the harm identified above.

## 6. ANY RELEVANT SITE HISTORY

- **13/01055/OUT** - Construction of four dwellings, all matters reserved at Land at Burnham Road, Althorne. – Withdrawn
- **14/00046/OUT** - Construction of four dwellings, all matters reserved at Land at Burnham Road, Althorne. – Refused – appeal dismissed

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Althorne Parish Council	Information in the application is incorrect.	No details regarding the incorrect information have been provided. The application has been assessed on the information as submitted.
	Outside the village envelope. Unsustainable location.	Comments noted. See section 5.1.
	Unsafe access - Concerns over addition of vehicles emerging onto a dangerous road.	Comments noted. See section 5.6.
	Lack of infrastructure.	See section 5.1.
	Flooding in the village including sewerage.	Comments noted. See section 5.8.

### 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex Fire and Rescue	Access for Fire Service is considered satisfactory subject to fire brigade access and water supplies for firefighting purposes to the proposed development being fully compliant with Building Regulations Approved Document B, B5. Your attention is drawn to ADB, B5 Section 13. More detailed observations on access	Comments noted.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	and facilities for the Fire Service will be considered at Building Regulation consultation stage	
Natural England	Undertake RAMS assessment	Comments noted. See section 5.10.
Essex County Council Place Services – Ecology	Initial objection regarding great crested newts has been overcome. No objection subject to conditions.	Comments noted.
Essex Police – Designing Out Crime	No concerns – some suggestions as to the finer detailing (landscaping, boundary treatments etc)	Comments noted.
Anglian Water	<p>There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that an informative be included within your Notice should permission be granted.</p> <p>The foul drainage from this development is in the catchment of Maylandsea Water Recycling Centre that will have available capacity for these flows.</p> <p>The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991.</p> <p>No comment on surface water disposal as the method proposed does not relate to Anglian Water.</p>	Comments noted. An informative will be imposed.
SuDS	Holding objection due to insufficient information	Amended details have been provided.
Tree Consultant	There doesn't appear to be a soft landscape scheme;	Comments noted.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>this should be conditioned. It will need to focus on providing screening / softening on the street frontage with suitable tree and shrub species, as well as elsewhere on the site. Ensuring that the species are indicative of the surrounding landscape, provide seasonal amenity and habitat for wildlife. It will be important that thought is given to ensure that tree species have sufficient space to develop into landscape features, without potentially impacting on the properties with shadow, cast, berry drop etc where it will result in pressure to remove them in the future.</p>	

### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Housing Department	<p>The Housing Register contains a significant number of people interested in affordable accommodation in Althorne. The number of affordable units proposed, whilst going towards meeting this need, is significantly below the demand for affordable housing in Althorne. Therefore, the Housing Service would strongly support the provision of affordable housing on this site. Furthermore, the fact that the Applicant is proposing well above the Policy requirement for affordable housing adds additional support to the proposal from Housing Services.</p>	Comments noted.
Environmental Health	Provide a noise impact	Comments noted. See

Name of Internal Consultee	Comment	Officer Response
	<p>assessment to ensure the pub opposite will not impact on the amenity of future occupiers</p> <p>It is proposed that the first-floor units in the apartment blocks will have a private amenity terrace/balcony but this may lead to disturbance to the residents in the other units. It is good practice to ensure, where possible, that similar rooms are located above below each other in a stacked layout.</p> <p>A rising main is shown on the Water Authority sewer map as running diagonally across the site and I would therefore recommend that you also consult with Anglian Water</p>	<p>section 5.7.</p> <p>See section 5.7.</p> <p>Comments noted. Anglian Water have been consulted.</p>

#### 7.4 Representations received from Interested Parties

7.4.1 **13** letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Concerns regarding highway and pedestrian safety and access	Comments noted. See section 5.6.
Design concerns – would not be in keeping with surrounding dwellings	See section 5.4.
The site lies below the main sewer level	Comments noted. Drainage details will be secured via condition. Anglian Water have confirmed the foul drainage and sewerage system have capacity for these flows.
The site floods in winter – the proposal could make this worse	See section 5.8.
Note the previous refusal on the site	This has been noted.
Outside the settlement boundary	The Council cannot demonstrate a 5YHLS, therefore policy S8 in relation to development outside of settlement boundaries is redundant.
Surrounding applications have been refused	The history of the area has been taken into consideration.
Impact on the rural character of the area	See section 5.4.

<b>Objection Comment</b>	<b>Officer Response</b>
No need for the development	Comments noted. The Council cannot demonstrate a 5YHLS. Both market and affordable dwellings are required. See section 5.2 and 5.3.
Limited facilities in the village	Comments noted. See section 5.1.
Increase in traffic	Comments noted. It is not considered there would be such an increase in traffic from 13 dwellings that would justify the refusal of the application on this basis.
Transport Statement shows a different housing layout	Comments noted. This has been updated to show the correct layout.
Limited bus services	Comments noted. See section 5.1.
Proposal does not meet the requirements of being a rural exceptions scheme	Comments noted. The proposal has not been assessed as a rural exceptions scheme.
There is no need for affordable housing	This is incorrect, there is a high need for affordable housing. See section 5.3.
The development is not financially viable	This is not a material planning consideration for this development.
Impact on neighbouring amenity	Comments noted. See section 5.5.
Impact on property values	This is not a material planning consideration.
Concerns over setting a precedent	Each application is assessed on its own merits. It is considered the benefits outweigh the concerns due to the overprovision of affordable housing.
Previous applications and appeals dismissed for housing in Althorne acknowledging it as being unsustainable	Comments noted. See section 5.1 and 5.11.
Affordable and market housing is divided from each other	Comments noted. See section 5.4.
Background and history about the developer	Comments noted.
Concerns over capacity of the sewer network	This is not a material consideration. Foul drainage details have been requested via condition.
Concerns over surface water drainage	See section 5.8. The further response from SuDS will be included on the Members' Update.
Broadband capacity issues	This is not a material planning consideration for this development.
Will it be connected to gas	This is not a material planning consideration.
Roads unsafe for cyclists	Comments noted. This would not justify the refusal of the application.
No pedestrian access to the train station	Comments noted. See section 5.1.
Noise from traffic	It is not considered the scale of the development would result in such a noise increase to justify its refusal.
An area of landscape sensitivity	Comments noted. See section 5.4.
Impact on wildlife	Comments noted. See section 5.9.
Application opposite refused on access	It is not clear which application this is

<b>Objection Comment</b>	<b>Officer Response</b>
and highway safety issues	referring to, however there are no objections in terms of highway safety or access.
Loss of the view	This is not a material planning consideration.
Application at Mansion House Farm to the north east was refused due to being unsustainable	This has been acknowledged. See section 5.1.
Contrary to the village design statement	Comments noted.
17/01010/FUL refused	See section 5.1 (5.1.12 specifically)
20/00725/FUL - Land Adjacent The Old Forge And Thornley Cottage – appeal dismissed as site was considered unsustainable	Comments noted, see section 5.1, 5.1.12 specifically.
21/00300/FUL argues why lack of a 5YHLS does not justify building in an unsustainable area	See section 5.1 (5.1.12 specifically)
Lack of a 5HYLS means the development should be assessed as whether it is sustainable under the NPPF definition	Comments noted. See section 5.1 and 5.11.

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

### **HEADS OF TERMS OF ANY SECTION 106 AGREEMENT**

- £1654.90 contribution towards the Essex Coast Recreational Avoidance disturbance Mitigation Strategy
- 8 Affordable Housing units – 4 one-bedroom units and 4 two-bedroom units
- Footpath to the front of the site
- Impact Assessment and Conservation Payment Certificate (IACPC) document in relation to the District Level Licensing Scheme for Great Crested Newts

### **PROPOSED CONDITIONS**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
  - 6812-1102-P4 Proposed site layout plan
  - 16244/GN/1
  - 16244/HN/2
  - 6812 Design and Access Statement 19.02.24(1)
  - Sustainable Drainage System Assessment (1)
  - Transport Statement
  - 6812-1101-P3
  - 6812-1206-P1
  - 6812-1208-P2
  - 6812-1209

- 6812-1210
- 6812-1211
- 6812-1212
- 6812-1301-P1
- 6812-1207-P1
- Planning Statement – Amended
- Preliminary Ecological Appraisal
- 1 in 100+CC 24hr Draindown Graphs
- BH Location Plan
- BH TQ99NW27
- Essex SuDS 005342 Response
- 6812-1102-P4 (3)
- 6812-1102-P4 (2)
- 6812-1102-P4 (1)
- Refuse 1
- Refuse 2

REASON To ensure that the development is carried out in accordance with the details as approved.

- 3 No works above ground level shall take place until high quality photographs and written details of the proposed materials to be used in the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved.

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

- 4 Prior to the commencement of the development the applicant shall submit in writing a construction management plan to the local planning authority for approval.

Within the Construction Management Plan, it must consider the following requirements:

The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours and to this effect:

- a) no waste materials should be burnt on the site, instead being removed by licensed waste contractors;
- b) no dust emissions should leave the boundary of the site;
- c) consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
- d) hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.

If it is known or there is the likelihood that there will be the requirement to work outside of these hours or there will be periods where there will be excessive noise that will significantly impact on sensitive receptors Environmental Health at Maldon District Council must be notified prior to the works as soon as is reasonably practicable. The developer is advised to consult nearby sensitive noise premises and may be advised to apply for a Prior Consent under Section 61 of the Control of Pollution Act 1974.

Care must be taken to prevent the pollution of ground and surface waters. This will include during works and the location of any hazardous materials including fuel from vehicles and equipment.

Where any soils that are known to be contaminated are being excavated or exposed a site waste plan must be prepared in order to store treat and dispose of the materials in accordance with the waste duty of care. It is recommended that advice is sought from the Environment Agency on this matter.

Where there is requirement for dewatering the site, the relevant consent must be sought from the Environment Agency.

Where there is a requirement to obstruct or alter watercourses a consent under section 23 of the Land Drainage Act must be obtained from Essex County Council.

REASON To protect the amenity of the area and neighbouring sites during construction, in accordance with policies D1 and D2 of the Maldon District Local Development Plan and the National Planning Policy Framework.

5 Full details of the provision and subsequent retention of both hard and soft landscape works on the site shall be submitted to and approved in writing by the local planning authority prior to any works occurring above ground level at the application site. These details shall include:

- 1) Details of proposed schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers/densities, including details of the native hedgerow to replace the 170 metres to be removed.
- 2) Details of the planting scheme implementation programme, including ground protection and preparation, weed clearance, stock sizes, seeding rates, planting methods, mulching, plant protection, staking and/or other support.
- 3) Details of the aftercare and maintenance programme.

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

Hard landscape works:

- 4) Details of walls with brick types, construction design and dimensions
- 5) Details of paved surfacing, with materials finishing and edgings
- 6) Details of street furniture, with designs materials and dimensions

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

REASON In the interest of the character and appearance of the area, in accordance with policies S8, D1 and H4 of the approved Maldon District Local Development Plan and the National Planning Policy Framework.

6 No works above ground level shall take place until details of the siting, height, design and materials of the treatment of all boundaries including existing

hedging, gates, fences, walls, railings and piers have been submitted to and approved in writing by the local planning authority. The screening as approved shall be constructed prior to the first occupation of the development to which it relates and be retained as such thereafter.

REASON In the interest of local amenity and in accordance with policies S8 and D1 of the Maldon District Local Development Plan and the National Planning Policy Framework.

- 7 No development work above ground level shall occur until details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development and retained as such thereafter.

REASON To ensure appropriate drainage is provided at the site in the interest of protecting against pollution and contamination, in accordance with policies D2 of the Maldon District Local Development Plan and the National Planning Policy Framework.

- 8 The market dwellings on plots 1-5 hereby approved shall not be occupied until three car parking spaces have been made available (two in the double garages and at least one on the driveway for each plot) and sufficient space for vehicles to turn so that they may enter and leave the site in forward gear, have been provided, in accordance with drawing 6812-1102-P3 Proposed site layout plan. Furthermore, a fast charging point shall be provided adjacent to at least one parking space on each plot. The approved parking shall thereafter be kept available for such purposes in perpetuity.

REASON To ensure suitable parking is provided in the interests of highway safety in accordance with policies D1 and T2 of the Maldon District Local Development Plan and the National Planning Policy Framework.

- 9 The market dwellings on plots 1-5 hereby approved shall not be occupied until two visitor spaces have been laid out. Furthermore, a fast charging point shall be provided adjacent to at least one of these parking spaces. The approved parking shall thereafter be kept available for such purposes in perpetuity.

REASON To ensure suitable parking is provided in the interests of highway safety in accordance with policies D1 and T2 of the Maldon District Local Development Plan and the National Planning Policy Framework.

- 10 Prior to first occupation, the three accesses shown from Burnham Road shall be constructed as shown on plan 6812-1102-P3 Proposed site layout plan and retained as such thereafter.

REASON In the interests of highway safety in accordance with policies D1 and T2 of the Maldon District Local Development Plan and the National Planning Policy Framework.

- 11 Provision shall be made for 16 car parking spaces (13 for the occupiers of the flats, including at least one disabled bay and 3 visitor spaces) within the site to serve the proposed flats by means of communal parking. Furthermore, a fast charging point shall be provided adjacent to at least four of these parking spaces, including one for the disabled bay. The communal parking and means of access thereto shall be constructed, surfaced, laid out and made available for use in accordance with the approved scheme prior to the first occupation of any of the flats and shall be retained as such thereafter.

REASON To ensure suitable parking is provided in the interests of highway safety in accordance with policies D1 and T2 of the Maldon District Local Development Plan and the National Planning Policy Framework.

- 12 The garages on plots 1-5 shall not be used other than for the accommodation of private motor vehicles or for any other purpose incidental to the enjoyment of the dwelling house as such and shall not at any time be converted or used as habitable space / living accommodation.

- REASON To ensure suitable parking is provided in the interests of highway safety and to protect the amenity of the area and neighbouring sites, in accordance with policies D1, H4 and T2 of the Maldon District Local Development Plan and the National Planning Policy Framework.
- 13 The refuse/cycle store within the north west corner of the site shall be constructed and made available for its intended use, prior to first occupation of any of the 8 flats hereby approved and shall provide sufficient space for the parking of at least 13 bicycles.
- REASON To ensure suitable cycle parking and bin storage is provided, in accordance with policies D1, D2 and T2 of the Maldon District Local Development Plan and the National Planning Policy Framework.
- 14 Prior to first occupation of the dwelling on plot 5, the upper floor windows on the eastern flank elevation shall be glazed with opaque glass and of a non-openable design with the exception of a top hung fanlight (which shall be at least 1.7m above internal floor level) and shall be retained as such thereafter.
- REASON To protect the amenity of the future occupiers of the proposed dwelling and the neighbouring occupier to the east, in accordance with policy D1 of the Maldon District Local Development Plan.
- 15 Prior to first occupation of the market dwellings on plots 1-5, all upper floor bathroom windows on the flank elevations shall be glazed with opaque glass and of a non-openable design with the exception of a top hung fanlight (which shall be at least 1.7m above internal floor level) and shall be retained as such thereafter.
- REASON To protect the amenity of the future occupiers of the proposed dwellings, in accordance with policy D1 of the Maldon District Local Development Plan.
- 16 Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no garages, extensions or separate buildings (other than incidental outbuildings not exceeding 10 cubic metres in volume) shall be erected on plots 1-5 without planning permission having been obtained from the local planning authority.
- REASON To protect the character and appearance of the site and the surrounding area, in accordance with policies D1 and H4 of the approved Maldon District Local Development Plan and the National Planning Policy Framework.
- 17 Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no dormer window or other form of window, addition or opening shall be constructed in the roof or gable walls of the new residential units on plot 1-5 without planning permission having been obtained from the local planning authority.
- REASON To protect the amenity of neighbouring occupiers and the character and appearance of the site and the surrounding area, in accordance with policies S8, D1 and H4 of the approved Maldon District Local Development Plan and the National Planning Policy Framework.
- 18 The following works - Erection of 13No. dwellings - shall not in in any circumstances commence unless the local planning authority has been provided with either:
- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
  - b) a GCN District Level Licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species

Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or

- c) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

REASON To ensure the protection of Great Crested Newts which are a protected species, in accordance with policy N2 of the Maldon District Local Development Plan and the guidance contained within the NPPF.

- 19 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Surface Property, June 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

REASON To ensure appropriate mitigation and enhancement measures are carried out, in accordance with policy N2 of the Maldon District Local Development Plan and the guidance contained within the NPPF.

- 20 No development shall take place (including any demolition, ground works, site clearance or hedgerow removal) until a Biodiversity Method Statement has been submitted to and approved in writing by the local planning authority.

The content of the method statement shall include the following:

- a) purpose and objectives for the proposed works;
- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) extent and location of proposed works shown on appropriate scale maps and plans;
- d) timetable for implementation;
- e) persons responsible for implementing the works;
- f) initial aftercare and long-term maintenance (where relevant);
- g) disposal of any wastes arising from works.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

REASON To ensure mitigation is in place during construction, in accordance with policy N2 of the Maldon District Local Development Plan and the guidance contained within the NPPF.

- 21 A Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the local planning authority prior to works above ground level.

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

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance.

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

REASON To ensure biodiversity net gain is achieved, in accordance with policy N2 of the Maldon District Local Development Plan and the guidance contained within the NPPF.

- 22 A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

REASON To protect biodiversity, particularly bats, in accordance with policy N2 of the Maldon District Local Development Plan and the guidance contained within the NPPF.

- 23 The surface water drainage scheme shall be implemented prior to occupation of the development hereby approved as set out within the details submitted with the application; Sustainable Drainage System Assessment (1), 1 in 100+CC 24hr Draindown Graphs, BH Location Plan, BH TQ99NW27, Essex SuDS 005342 Response.

REASON To ensure appropriate drainage is provided, in the interests of mitigation against flood risk, in accordance with policy D5 of the Maldon District Local Development Plan and the guidance contained within the NPPF.

- 24 Prior to first occupation of the development hereby approved, the footpath as shown on plan 6812-1102-P3 Proposed site layout plan shall be laid out, connecting the site to the existing pedestrian network. This shall be maintained as such thereafter.

REASON To promote accessibility and connectivity of the site to surrounding areas, in accordance with policy T2 of the Maldon District Local Development Plan and the guidance contained within the NPPF.

- 25 Screens at 1.8m in height, the design and materials of which shall be submitted to and approved in writing by the local planning authority prior to their installation, shall be erected along:
- a) the western side boundary of the first-floor rear terrace of the house at Plot 2.
  - b) the eastern side boundary of the first-floor rear terrace of the house at Plot 3.
  - c) the western side boundary of the first-floor rear terrace of the house at Plot 4.

The screens as approved shall be erected prior to the occupation of the development to which it relates and shall be retained and maintained as such thereafter.

REASON To protect the amenity of the future occupiers of the proposed dwellings, in accordance with policy D1 of the Maldon District Local Development Plan.

## **INFORMATIVES**

### 1. Refuse and Recycling

The applicant should consult the Waste and Street Scene Team at Maldon District Council to ensure that adequate and suitable facilities for the storage and collection

of domestic waste and recyclables are agreed, and that the site road is constructed to accommodate the size and weight of the Council's collection vehicles.

## 2. Land Contamination

Should the existence of any contaminated ground or groundwater conditions and/or hazardous soil gases be found that were not previously identified or not considered in a scheme agreed in writing with the Local Planning Authority, the site or part thereof shall be re-assessed and a scheme to bring the site to a suitable condition shall be submitted to and agreed in writing with the Local Planning Authority. A "suitable condition" means one in that represents an acceptable risk to human health, the water environment, property and ecosystems and scheduled ancient monuments and cannot be determined as contaminated land under Part 2A of the Environmental Protection Act 1990 now or in the future. The work will be undertaken by a competent person in accordance with the Essex Contaminated Land Consortium's Land Contamination Technical Guidance For Applicants and Developers and UK best-practice guidance.

## 3. Alteration to an Ordinary Watercourse

Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River. If you believe you need to apply for consent, further information and the required application forms can be found at [www.essex.gov.uk/flooding](http://www.essex.gov.uk/flooding). Alternatively, you can email any queries to Essex County Council via [watercourse.regulation@essex.gov.uk](mailto:watercourse.regulation@essex.gov.uk). Planning permission does not negate the requirement for consent, and full details of the work you propose will be required at least two months before you intend to start.

## 4. Timing of submission of details

It is recommended that the developer seeks to discharge conditions at the earliest opportunity and in many respects, it would be logical to do so before development commences. This is particularly the case with conditions which begin with the wording "no development works above ground level shall occur until..." because this will help to ensure that the developer does not go to the risk of incurring costs from commencing development and then finding issues which are difficult to comply with or which may then require the correction of works that have been undertaken.

## 5. Anglian Water

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore, the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.