



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**CENTRAL AREA PLANNING COMMITTEE  
27 JANUARY 2022**

<b>Application Number</b>	<b>21/01025/FUL</b>
<b>Location</b>	Land West of South Bank, Cromwell Lane, Maldon, Essex
<b>Proposal</b>	Single storey 3 bedroom dwelling
<b>Applicant</b>	Messrs Peter and Ben Hemmersley
<b>Agent</b>	Mark Jackson - Mark Jackson Planning
<b>Target Decision Date</b>	28.01.2022
<b>Case Officer</b>	Kathryn Mathews
<b>Parish</b>	<b>MALDON NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Departure from approved Maldon District Local Development Plan and Officers recommend that permission be granted.

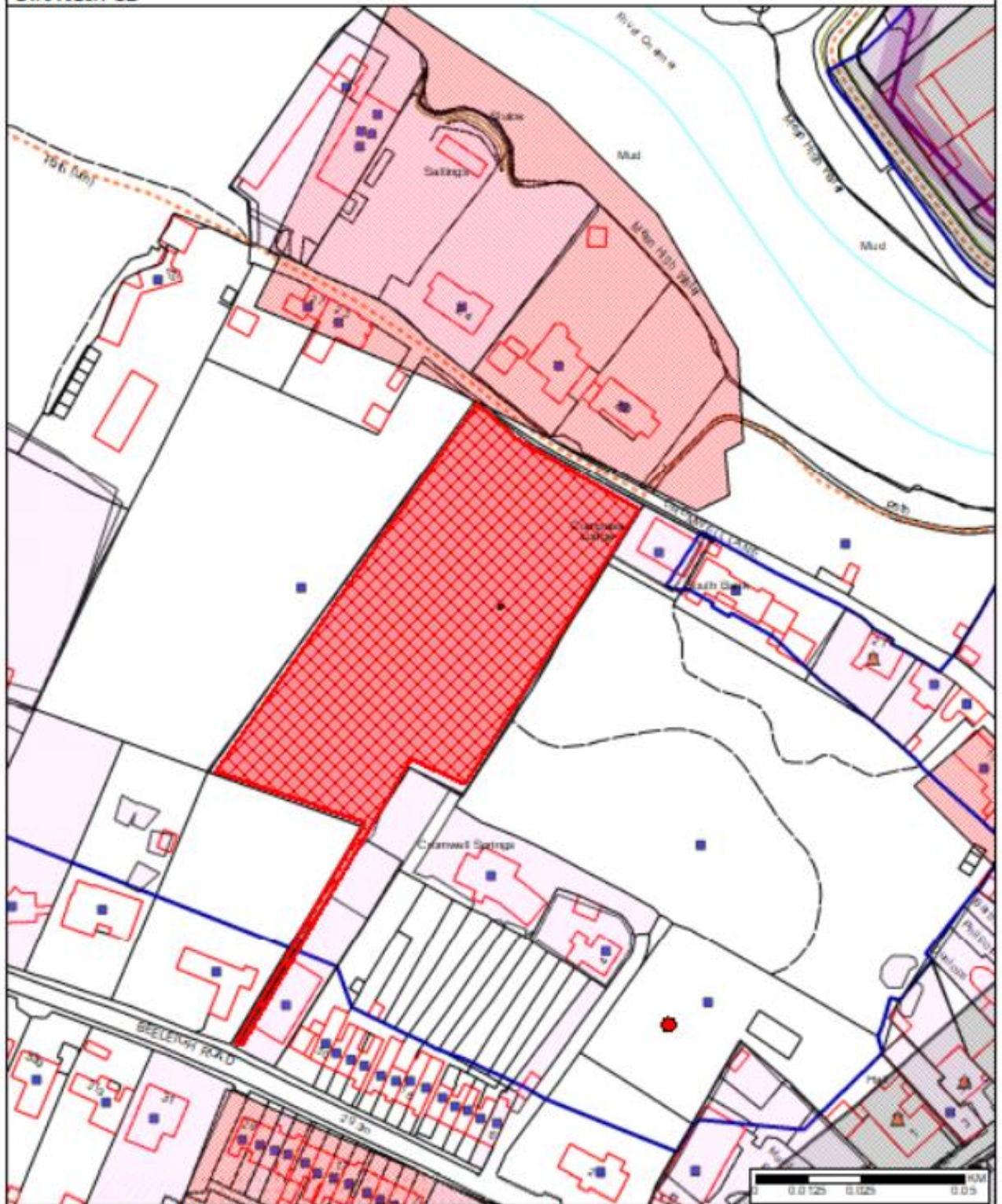
**1. RECOMMENDATION**


**APPROVE** subject to the conditions (as detailed in Section 8 of this report).

**2. SITE MAP**

Please see below.

**Land West of South Bank, Cromwell Lane, Maldon**  
 21/01025/FUL



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Central Area Committee
	Date:	16/12/2021
	MSA Number:	100018588



### **3. SUMMARY**

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

- 3.1.1 The application site is located to the south of Cromwell Lane, which is a single track, unmade private road. There is also a means of access to the site for pedestrians from the south located between two properties which front Beeleigh Road. The site is currently undeveloped and is a field which slopes upwards from north to south and which contains grass/scrub and is enclosed by hedgerows/trees and post and rail fencing.
- 3.1.2 The existing development along Cromwell Lane is residential with that to the east, towards Market Hill, is located within the settlement boundary of Maldon and those to the north and west, along with the application site itself (except for the southerly section of the footpath referred to above) are outside of the town's settlement boundary. The existing residential development within the vicinity of the site varies in appearance, size and age but that to the north and west is lower density and sporadic compared to that to the east within generously sized plots. The dwelling to the east is a bungalow.
- 3.1.3 The site is within the Chelmer and Blackwater Navigation Conservation Area and adjoins the western boundary of the Maldon Conservation Area. The site is in close proximity to the River Chelmer which is located beyond the residential properties to the north which are opposite the site.
- 3.1.4 There is a Public Right of Way which runs along Cromwell Lane along the site's frontage. This footpath links Fullbridge to the east with the rural areas to the west of Maldon. There is currently no vehicular access to the site.
- 3.1.5 Planning permission is sought for a new, three-bedroom dwelling which would be single storey and partially built into the sloping ground levels. The dwelling would be sited 21.2m from the site's frontage with Cromwell Lane and 65.8m (at the closest point) from the rear boundaries of the dwellings to the south which front Beeleigh Road and back onto the site.
- 3.1.6 The dwelling would measure a minimum of 10.5m and a maximum of 19.95m in depth, with a width of 26.9m. There would be a paved area to the rear contained by a retaining wall beyond which would be further amenity space accessed via a staircase from this paved area. The dwelling would have a flat, sedum roof (with two roof lanterns) with a maximum height above the proposed ground levels of 2.3m. There would be a double garage to the side of the proposed dwelling. The similar proposal was granted planning permission by planning committee in 2014 (reference 13/01001/FUL), although this planning permission has now expired.
- 3.1.7 The external materials would consist of stone walling, horizontal cedar boarding and render with a sedum roof. Windows and doors would be painted timber except for the bi-folding doors proposed to the rear.
- 3.1.8 Ground levels within the site could be regraded through cut and fill so the building would be set into the ground by around 1.4m, but it is stated as part of the application that no spoil would need to be removed from the site. The cross sections submitted show that the maximum reduction/increase in ground levels would be around 2m.
- 3.1.9 A vehicular access would be created in the north-eastern corner of the site.
- 3.1.10 The retention of the majority of the existing trees/hedgerows is proposed.

3.1.11 The application is accompanied by:

- Planning Design and Access Statement
- Low Impact ECIA
- Aborigicultural Impact Assessment
- Heritage Statement
- Proposed street scene

3.1.12 In support of the application, the following information is provided:

- As part of the 2014 planning permission, it was accepted that the site was within a sustainable location even though it was located outside the town's settlement boundary. The agent considers that there has not been a material change in circumstances to justify a different conclusion now being reached.
- A bungalow would contribute to the provision of a home for the elderly and/or disabled residents.

## **3.2 Conclusion**

3.2.1 Whilst the proposal is contrary to the Local Development Plan (LDP), it is considered that insufficient harm arises from the development in this location for the proposal not to be sustainable development and planning permission was granted for a similar development in 2014. No objection is, therefore, raised to the principle of the development. It is considered that the proposal would not have a materially adverse impact on the character and appearance of the area or the character and appearance of the Conservation Areas. It is concluded that the development would not have an adverse impact on the amenity of the occupiers of any neighbouring residential property and would be acceptable in terms of highways safety/access/parking, nature conservation (subject to a financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) being secured), drainage and the quality of life for the occupiers of the proposed dwelling.

## **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
- 81-85 Building a strong, competitive economy
- 92-103 Promoting healthy and safe communities
- 104-109 Promoting sustainable transport
- 119-123 Making effective use of land
- 124-125 Achieving appropriate densities
- 126-135 Achieving well-designed places

- 152-173 Meeting the challenge of climate change, flooding and coastal change
- 174-188 Conserving and enhancing the natural environment
- 189-208 Conserving and enhancing the historic 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 Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- H4 Effective Use of Land
- N1 Green Infrastructure Network
- N2 Natural Environment, Geodiversity and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services

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

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide (MDDG) (2017) SPD
- Vehicle Parking Standards (VPS) SPD
- Maldon Conservation Area Appraisal and Management Plan
- Chelmer And Blackwater Conservation Area Landscape Character Assessment

### **5. MAIN CONSIDERATIONS**

5.1 The main issues which require consideration as part of the determination of this planning application are the principle of the development, the impact on the character and appearance of the area (which is within and adjacent to Conservation Areas), any impact on the amenity of the occupiers of neighbouring residential properties, nature conservation, the quality of life for the occupiers of the proposed dwelling, highways/parking considerations and drainage.

#### **5.2 Principle of Development**

5.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require 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.

5.2.2 Policy S1 refers to the NPPF's presumption in favour of sustainable development and makes specific reference to the local economy, housing growth, effective use of land, prioritising development on previously developed land, design, the environment, sustainable communities, the effects of climate change, avoiding flood risk area, the

historic environment, local infrastructure and services, character and appearance, and minimising need to travel.

5.2.3 Policy S8 of the LDP does not allow for the construction of new dwellings outside the development boundaries even if the intrinsic character and beauty of the countryside is not adversely impacted upon (discussed below). The proposal, is therefore, contrary to this Policy.

5.2.4 However, 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). The Council is not currently able to demonstrate a deliverable 5YHLS with only 3.26 years of housing land supply.

5.2.5 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, its housing supply Policies are considered to be out-of-date and 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)*

5.2.6 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). As currently the Council is unable to demonstrate a deliverable 5-year supply of housing land, for planning purposes, the housing delivery Policies within the LDP, in particular Policy S1, are out-of-date and so cannot be afforded material weight in the determination of this application. Therefore, with respect to housing delivery, the NPPF would take precedence over the LDP.

5.2.7 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'*.

5.2.8 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.

#### 5.2.9 Sustainable Development

5.2.10 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental parts. The LDP through Policy S1 reiterates the requirements of the NPPF. 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. These three dimensions are assessed below.

#### 5.2.11 Environmental Dimension

5.2.12 Accessibility is a key component of the environmental dimension of sustainable development.

5.2.13 Policy T1 aims to secure the provision of sustainable transport within the District. Policy T2 aims to create and maintain an accessible environment.

5.2.14 The site is located within the rural area on an unmade road with no footpaths or street lighting. However, part of the southern end of the site is located within the settlement boundary for Maldon and the development boundary is close to the eastern boundary of the site beyond the adjoining dwelling. Maldon is one of the main settlements within the District (defined as a settlement with a range of services and opportunities for employment, retail and education, serving a wide catchment area and containing good public transport links). The site is within walking distance of Maldon town centre and medical services, education, employment and shops, offered within the urban area of Maldon including the commercial uses within and around the Blackwater Retail Park off Fullbridge. Therefore, the occupiers of the site would be able to access the range of services and facilities within the town of Maldon without reliance on the use of a private car. There is also public transport provision in the area and cycling would be an option for the occupiers of the site. Therefore, occupiers of the site would not be reliant on the use of private transport to gain access to day-to-day facilities and services.

5.2.15 Based on this assessment, the location of the site would not fail to discourage the use of private cars. Paragraph 105 of the NPPF states that *"The planning system should actively manage patterns of growth in support of these objectives [sustainable transport]. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine*



*choice of transport modes.*” As highlighted above, occupiers of the site would have opportunities for utilising sustainable transport. The proposal would also accord with Policy T2 of the LDP where it seeks “*to provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate*”. The proposal, therefore, would not have a negative impact on the environmental dimension of sustainable development in relation to accessibility.

5.2.16 Furthermore, planning permission has been granted (reference 16/00100/FUL) for a two-bedroom, single storey house in 2016 to the east on land outside the town’s development boundary. As part of the assessment of that application, it was concluded that the site was in an accessible location. It is considered that there is no reason for a different view to now be taken.

5.2.17 The other aspects of the environmental dimension of sustainable development (including the impact of the development on the character and appearance of the area, nature conservation and residential amenity) are discussed in the relevant sections below.

#### 5.2.18 Social Dimension - Housing Provision and Mix

5.2.19 The development would provide a single, three-bedroom dwelling. The Council currently encourages, in policy H2, the provision of a greater proportion of smaller units to meet the identified needs and demands. However, the most up-to-date Local Housing Needs Assessment (May 2021) identifies that the greatest need is for three-bedroom dwellings. As a result, the development would contribute positively to the identified housing need and be responsive to local circumstances, which weighs in favour of the proposal. However, the social benefits of the residential development proposed would not be significant as only one dwelling is proposed.

5.2.20 The proposal would contribute towards the District’s housing supply and would meet an identified need for three-bedroom houses (Local Housing Needs Assessment – May 2021) but this would only weigh slightly in favour of the proposal as only a single dwelling is proposed.

5.2.21 Based on the above, it is considered that the proposal would have a limited positive impact in relation to the social dimension of sustainable development.

#### 5.2.22 Economic Dimension

5.2.23 It is reasonable to assume that there may be some support for local trade from the development, and the additional unit may support local businesses due to its proximity to them. This would however be limited given the scale of the proposal in the context of the District as a whole. There is also no guarantee that the construction would be undertaken by local businesses, with locally sourced materials. These economic benefits would therefore be considered to be very limited.

### **5.3 Conclusion on Principle of the Development**

5.3.1 Based on the above, as it is considered that the development would not cause material harm to the intrinsic character and beauty of the countryside (see below), no objection is raised to the principle of the development proposed as material considerations outweigh the content of the LDP in this case.

## 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:

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

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

5.4.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. It is considered that the proposal could be described as ‘infill’ development. The criteria set out in Policy H4 relating to infill development are as follows:-

- 1) there is a significant under-use of land and development would make more effective use of it
- 2) there would be no unacceptable material impact upon the living conditions and amenity of nearby properties [see below]
- 3) there will be no unacceptable loss of land which is of local social, economic, historic or environmental significance and
- 4) the proposal will not involve the loss of any important landscape, heritage features or ecology interests.

- 5.4.6 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the character or appearance of the conservation area. Similarly, policy D3 of the approved Maldon District LDP states that development proposals that affect heritage assets must preserve or enhance its special character, appearance, setting and any features and fabric of architectural or historic interest. Where a proposed development would cause less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 5.4.7 The Heritage Statement submitted concludes that the proposed development will not have any detrimental impacts on the setting of listed buildings, or the character of the conservation areas due to the well-considered design, choice of materials and as it allows the open views to remain.
- 5.4.8 The Specialist – Heritage and Conservation has provided the following specialist advice:

*The application site falls within the Chelmer and Blackwater Navigation Conservation Area and is just outside the Maldon Conservation Area. Cromwell Lane is a narrow track running parallel with the course of the River Chelmer. Its entrance off Market Hill is tightly enclosed by attractive old buildings. Further along the lane there are some modern houses, including three bungalows on the south side, interspersed amid areas of undeveloped land which slopes down to the river. This fringe of green space makes an important contribution to the long views of the town. The Maldon Conservation Area Review and Appraisal (approved by Council 2007) comments that seen from the north “the old town presents an attractive profile, with the geometry of buildings set in masses of foliage”, (p. 21).*

*Of immediate relevance to this application, the Maldon Conservation Area Review and Appraisal observes in relation to Beeleigh Road that:*

*there has been some encroachment on the slope below the road, and there are several open spaces which predictably could be targeted for development. This trend should be arrested at this stage. The hillside is prominent in views into the town and the conservation area, and the river valley to the west is part of the Chelmer and Blackwater conservation area. (p.26)*

*Immediately to the east of the proposed dwelling is South Bank, a very low, single-storey, flat-roofed house probably dating from the 1960s. It is notable that this house is almost entirely invisible in the long views from the other side of the river.*

*This application seeks to renew planning permission for a scheme which was granted in 2014 (ref. FUL/MAL/13/01001). While mindful of the need to protect the well-vegetated slopes which contribute positively to the riverside setting, I do not object to this application. As the house would be sunk into the ground and have a flat sedum roof its visual impact upon the two conservation areas at this particular location would be limited. The design is thoughtful and proposes quality materials. As such I envisage no harm to the character or appearance of either conservation area. The proposal poses no conflict with policy D3 of the Maldon LDP, chapter 16 of the NPPF or with the duty set out in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.*

*I therefore raise no objection to the approval of the application subject to the same conditions as attached to FUL/MAL/13/01001.*

- 5.4.9 The application site is located within and adjacent to a Conservation Area as well as being within the rural area. However, the site benefits from existing trees and other vegetation particularly around the site. Given the size and position of the proposed dwelling, along with its design which would include a sedum roof and its height which would be below the highest ground levels at the southern end of the site, the development would not be visually prominent in the street scene or the surrounding countryside. However, the development would cause some harm to the character or appearance of the site and its surroundings through urbanization of the site which is currently an undeveloped field. The appearance of the dwelling would contrast with the existing dwellings along Cromwell Lane, but it is noted that there is variety within the streetscene, and the development would not appear particularly incongruous due to its design, external materials, height and position within the site.
- 5.4.10 The proposed dwelling would be significant in width at nearly 27m, but the plot is over 47m in width and, given the low-slung design of the dwelling, materials which would reduce its visual impact in its rural locality and the distance it would be set back from the road frontage, its significant width would not result in material harm to the character or appearance of the area.
- 5.4.11 With respect to tree removal, the Arboricultural Impact Assessment submitted concludes that tree protection will be required and an Arboricultural Method Statement and Tree Protection Plan have been included. Some tree work is proposed (selective reduction of the hedgerow along the site's boundaries to create space for the development). The Council's Tree Consultant has raised no objections to the proposal provided that the tree protection is in place prior to works commencing on site and subject to the imposition of conditions requiring details of arboricultural supervision visits to ensure the tree protection measures are set-up and maintained along with details of any tree management works to be undertaken and when. These conditions could be imposed if planning permission were to be granted.
- 5.4.12 Details of additional soft landscaping and boundary treatment could be required by condition if planning permission were to be granted to ensure that these elements were appropriate for the site and reflect its rural and historic setting. The previous planning permission (ref: 13/01001/FUL) was also conditional on details of how the land would be managed for the long term being approved due to the extent of the site in the interests of the character and appearance of the site and its surroundings. This would have the potential to enhance the site and a similar condition could be imposed if planning permission were to be granted for the currently proposed scheme.
- 5.4.13 The amenity area to the rear of the proposed dwelling would be substantial in extent (over 3200sq.m.). As a result and given the site's sensitive location within the rural area and within a Conservation Area, it is considered necessary to remove permitted development rights for extensions and outbuildings if planning permission were to be granted for the development. The applicant has stated that they would not object to the removal of permitted development rights if planning permission were to be granted.
- 5.4.14 Proposed cross sections of the site have been submitted but, as the site is sloping ground and ground levels are proposed to be altered as part of the proposal, it is considered necessary for a condition to be imposed requiring details of the finished ground and floor levels of the development to be submitted for approval if planning permission were to be granted. A condition requiring samples or details of all materials to be used on the exterior of the house, as recommended by the Specialist

– Heritage and Conservation, would also be required in the interests of the character and appearance of the area.

5.4.15 Based on the above assessment, it is concluded that the development would not cause harm to the character or appearance of the Conservation Areas, or have a limited adverse impact on the intrinsic character and beauty of the countryside. The proposal, with reference to Policy H4, would also make more effective use of the land, there would be no loss of land with social, economic, historic or environmental significance and the proposal would not involve the loss of any important landscape, heritage features or ecology interests. Therefore, the proposal does not conflict with the aims and requirements of the abovementioned policies.

## **5.5 Impact on Residential Amenity**

5.5.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).

5.5.2 There is an existing residential property to the east of the site and there are also residences on the opposite side of Cromwell Lane. However, the dwelling would be single storey in height, partially set into the ground and a sufficient distance from the boundaries of the site so as not to cause harm through overlooking, loss of outlook or light or overdominance. Therefore, the proposal would not be an unneighbourly form of development and is therefore considered to be in compliance with Policy D1 of the LDP in this regard.

## **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 include 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 to maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

5.6.2 The Council's adopted VPS SPD contains the parking standards which are expressed as minimum standards.

5.6.3 The development would make adequate provision for off-street parking to comply with the adopted standards.

5.6.4 The site is accessed off a private, unmade part of Cromwell Lane. Essex County Council Highways (ECC) has not objected to the proposal on the basis that this is a private road subject to the imposition of a condition to protect the public's rights and ease of passage over public footpath 4 (Maldon) which could be imposed if planning permission were to be granted. However, in order to protect the safety of road users it is considered important to include conditions relating to gates and materials for the driveway. Furthermore, due to the narrowness of the vehicular access to the site, it is considered that it would be necessary and reasonable to impose a condition requiring a Construction Method Statement if planning permission were to be granted.

## **5.7 Quality of Life for the Occupiers of the Proposed Dwelling**

- 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 SPD 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 25 m<sup>2</sup> for flats.
- 5.7.2 The proposed dwelling would be provided with in excess of 100sq.m. private amenity space which would comply with the MDDG. This, along with the size and design of the dwelling proposed, would ensure that an adequate quality of life would be provided for the occupiers of the site.

## **5.8 Nature Conservation**

- 5.8.1 Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.8.2 Policy D1 requires that, amongst other things, all development must respect and enhance the character and local context and make a positive contribution in terms of the natural environment particularly in relation to designated and non-designated sites of biodiversity/geodiversity value (criterion f).
- 5.8.3 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure.
- 5.8.4 Policy N2 states that, any development which could have an adverse impact on sites with designated features, priority habitats and/or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.
- 5.8.5 The development has the potential to have an impact on nature conservation interests both within the site and off-site.
- 5.8.6 A Low Impact Ecological Impact Assessment (EclA) has been submitted with the application which concludes as follows:
- The site is within the Zone of Influence for the Blackwater Estuary and will contribute to recreational pressures – a financial contribution is required in compliance with the Essex Coast RAMS, as mitigation.
  - Priority Habitats will not be affected.
  - The habitats on site are common, widespread and significant at site level only. The eastern boundary hedgerow is Priority Habitat and under the NERC Act 2006 will be conserved and enhanced.
  - The site is small and contains limited habitat diversity. Mitigation measures are required in relation to nesting birds. The method statement will be followed in relation to great crested newt and reptiles. Precautionary measures are required in respect of badger.
  - Enhancements are proposed: species rich new planting, bat roost features and bird boxes.

- 5.8.7 ECC Ecology has raised no objection to the proposal subject to securing biodiversity mitigation and enhancement measures. They have advised that, having reviewed the Low Impact EclA, they note that this development is predicted to have an impact on designated sites and will require delivery of mitigation measures at the coastal Habitats sites. They consider that, with appropriate mitigation measures secured, the development can be made acceptable which would include adherence with the method statement for Great Crested Newts and reptiles and precautionary measures for nesting birds and any mobile mammals e.g. Badger and Hedgehog. In addition, a Wildlife Sensitive Lighting Strategy should be delivered for this scheme to avoid impacts to foraging and commuting bats. A Biodiversity Enhancement Strategy should also be secured. These requirements could be secured by condition if planning permission were to be granted for the development proposed.
- 5.8.8 In terms of off-site impacts, Natural England (NE) have advised that this development falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council (MDC), working together to mitigate the effects arising from new residential development. Once adopted, the Essex Coast RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. NE advise that MDC must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.
- 5.8.9 NE has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational Zol of these sites cover the whole of the Maldon District.
- 5.8.10 NE anticipate that, in the context of the local planning authority's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these Zol constitutes 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.
- 5.8.11 Prior to the Essex Coast RAMS being adopted, NE advise that these recreational impacts should be considered through a project-level HRA – NE has provided a HRA record template for use where recreational disturbance is the only HRA issue.
- 5.8.12 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 and has currently been set at £127.30 per dwelling.

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

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

Is the development within the zone of influence (Zol) for the Essex Coast RAMS with respect to the below sites? Yes

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

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

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

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

Summary of Appropriate Assessment – as a competent authority, the local planning authority concludes that the project will not have a likely significant effect on the sensitive interest features of the European designated sites provided that mitigation, in the form of a financial contribution, is secured. The relevant financial contribution has already been paid.

## 5.9 Other Material Considerations

- 5.9.1 Planning permission was refused in 2017 for the development of the site for residential purposes (reference 16/01270/FUL) for the following reason:

1. *The application site is in a rural location outside of the defined settlement boundary for Maldon where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Local Development Plan to meet the objectively assessed needs for housing in the District. The proposed development would, by reason of its complex design, cramped appearance, and prominence would result in an urbanising effect, incongruous and intrusive development that would cause demonstrable harm to the character and appearance of the estuarine character of this part of the conservation area. The development would therefore in conflict with policies S2, H1, BE1, CC6, BE13 of the adopted Maldon District Replacement Local Plan, policies S1, S8, D1, D3, H4, N2 of the Maldon District Local Development Plan and Government advice contained in the National Planning Policy Framework.*

- 5.9.2 However, that application related to two dwellings, rather than one i.e. a greater quantum and scale of development, and was determined at a time when the Council was able to demonstrate a 5YHLS. Therefore, granting planning permission for the current proposal would not be at odds with this previous decision.



## **5.10 Other Matters**

- 5.10.1 Archaeology: Policy D3 requires that, where development might affect geological deposits, archaeology or standing archaeology, an assessment from an appropriate specialist source should be carried out. ECC Archaeology has advised that the site is located within an area of archaeological potential and conditions are recommended which could be imposed if planning permission were to be granted.
- 5.10.2 With respect to drainage, details of foul and surface water schemes for the development would need to be submitted for approval which could be required by condition, in accordance with the advice of the Specialist Environmental Health, if planning permission were to be granted for the development proposed.

## **5.11 Planning Balance and Sustainability**

- 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 LPA 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, stated at paragraphs 7 and 8, 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 paragraphs, 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, any economic benefits would be nominal. In social terms the proposal would have some benefits, as discussed above, and these would be sufficient to outweigh the limited environmental harm the development would cause.
- 5.11.6 Overall, the development is considered to be sustainable, and the development would therefore be acceptable.

## **5.12 Pre-commencement Conditions**

- 5.12.1 The applicant has raised no objection to the imposition of the 'pre-commencement' conditions relating to archaeology, Construction Method Statement, ground/finished floor levels and arboricultural works recommended below.

## 6. ANY RELEVANT SITE HISTORY

- **16/01270/FUL** - 2 new build single storey 4 bed houses – refused 29.06.2017
- **1301001/FUL** – Single storey 3 bedroom dwelling – approved 21.02.2014

Adjacent site to east for street scene context:

- **16/00100/FUL** - Demolish existing timber shed. Construction of a 2 bedroom, timber clad, single storey house – approved 29.04.2016

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	Recommends approval subject to the conditions recommended in the Specialist Archaeological and Ecological advice being imposed.	Noted – the conditions could be imposed if planning permission were to be granted.

### 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Archaeology (ECC)	The site is located in an area where there is the potential for archaeological remains. Therefore, the imposition of a full archaeological condition is recommended.	Noted – the condition recommended could be imposed if planning permission were to be granted.
Essex County Council Highways (ECC)	No objection subject to the imposition of a condition to protect the public's rights and ease of passage over public footpath 4 (Maldon).	Noted – refer to section 5.5 of the report.

### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Specialist – Environmental Health	No objections subject to the imposition of conditions relating to surface water and foul drainage.	Noted – these conditions could be imposed if planning permission were to be granted.
Tree Consultant	No objections, subject to the imposition of conditions.	Noted – refer to section 5.3 of report. The conditions recommended could be imposed if

Name of Internal Consultee	Comment	Officer Response
		planning permission were to be granted.
Specialist – Conservation and Heritage	No objection subject to the imposition of conditions.	Noted – refer to section 5.3 of the report. The conditions recommended could be imposed if planning permission were to be granted.
Essex County Council (ECC) Ecology	No objection subject to conditions to secure biodiversity mitigation and enhancement measures. The LPA will need to prepare a Habitats Regulations Assessment (HRA) Stage 2 Appropriate Assessment.	Noted – the conditions recommended could be imposed if planning permission were to be granted. A HRA has been carried-out (see above).

#### 7.4 Representations received from Interested Parties

7.4.1 No letters of representation were received.

#### 8. 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) of The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in complete accordance with the approved drawings as follows:  
PL01rev.A  
PL02  
PL03  
PL04rev.A  
PL05rev.A  
PL06rev.A  
PL07rev.A  
PL08rev.A  
Arboricultural Impact Assessment  
REASON: To ensure that the development is carried out in accordance with the details as approved.
- 3 No development above slab level shall take place until written details or samples of all materials to be used in the construction of the external surfaces of 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 To ensure the use of appropriate materials for the development and protect the character and appearance of the area which is a Conservation Area, in accordance with policies D1, D3 and H4 of the approved Maldon District Local Development Plan and the NPPF.
- 4 No development above slab level shall commence until details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be

constructed as approved prior to the first occupation of the development and be retained as such thereafter.

REASON To ensure appropriate boundary treatment for the site in the interest of the character and appearance of the area, which is rural and a Conservation Area, and in the interests of highway safety, in accordance with policies D1, D3, H4 and T2 of the approved Maldon District Local Development Plan and the NPPF.

- 5 The parking spaces and means of access proposed shall be constructed, surfaced, laid out and made available for use in accordance with the approved scheme along with the provision of an electric vehicle charging point prior to the occupation of the dwelling and retained as such thereafter.

REASON To ensure appropriate parking is provided in accordance with policies D1 and T2 of the approved Maldon District Local Development Plan.

- 6 No development shall take place above slab level until full details of both hard and soft landscape works to be carried out have been submitted to and approved in writing by the Local Planning Authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers / densities and details of the planting scheme's implementation, aftercare and maintenance programme. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the Local Planning Authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first 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.

REASON In order to ensure an appropriate landscaping scheme for this site and to protect the character and appearance of the area, which is rural and a Conservation Area, in accordance with policies D1, D3 and H4 of the approved Maldon District Local Development Plan and the NPPF.

- 7 Prior to the occupation of the dwelling hereby permitted, a schedule of land management for the site shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of proposals for the management of the application site, including land maintenance. The site shall be maintained in accordance with the approved details.

REASON In order to protect the character and appearance of the area, which is rural and a Conservation Area, in accordance with policies D1, D3 and H4 of the approved Maldon District Local Development Plan and the NPPF.

- 8 No development shall take place until details of the existing and proposed ground levels and finished floor levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried-out in accordance with the approved details.

REASON In order to protect the character and appearance of the area, which is rural and a Conservation Area, in accordance with policies D1, D3 and H4 of the approved Maldon District Local Development Plan and the NPPF.

- 9 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- The parking of vehicles of site operatives and visitors
  - Loading and unloading of plant and materials
  - Storage of plant and materials used in constructing the development
  - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - Wheel washing facilities
  - Measures to control the emission of dust and dirt during construction
  - A scheme for recycling/disposing of waste resulting from demolition and construction works

REASON In the interests of the amenity of local residents and highway safety, in accordance with Policies D1 and T2 of the approved Maldon District Local Development Plan and the National Planning Policy Framework.

- 10 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking or re-enacting that Order) no garages, extensions or separate buildings (other than ancillary outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site without planning permission having been obtained from the Local Planning Authority.

REASON In order to protect the character and appearance of the area which is a rural area and within a Conservation Area, in accordance with policies D1, D3 and H4 of the approved Maldon District Local Development Plan and the NPPF.

- 11 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Low Impact EclA (Hybrid Ecology Ltd, November 2021) submitted with the planning application.

REASON To conserve and enhance protected and Priority species, allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), in accordance with Policies N1 and N2 of the approved Maldon District Local Development Plan and the NPPF.

- 12 No development above slab level shall take place until a Biodiversity Enhancement Strategy has been submitted to and approved in writing by the local planning authority following the recommendations made within the Low Impact EclA (Hybrid Ecology Ltd, November 2021). 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 enhance Protected and Priority Species/habitats, allow the Local Planning Authority to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species), in accordance with Policies N1 and N2 of the approved Maldon District Local Development Plan and the NPPF.

13 The dwelling hereby permitted shall not be occupied until a lighting design scheme for biodiversity has been 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 approved scheme and maintained thereafter in accordance with the scheme. No other external lighting shall be installed without prior consent from the local planning authority.

REASON To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), in accordance with Policies N1 and N2 of the approved Maldon District Local Development Plan and the NPPF.

14 No development works above ground level shall occur until details of the surface water drainage scheme to serve the development has been 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. The scheme shall ensure that for a minimum:

- 1) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
- 2) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield).

In order to satisfy the soakaway condition details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled will be required. Where the local planning authority accepts discharge to an adopted sewer network, written confirmation from the statutory undertaker that the discharge will be accepted will be required.

REASON To ensure that an adequate means of drainage is provided in order to minimise flood risk, in accordance with Policy D5 of the approved Maldon District Local Development Plan and the NPPF.

15 No development works above ground level shall occur until details of the foul drainage scheme to serve the development has been 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.

REASON To ensure that an acceptable means of foul drainage is provided in the interest of preventing pollution, in accordance with Policy D2 of the approved Maldon District Local Development Plan and the NPPF.

16 No development (including any site clearance or groundworks of any kind) shall take place within the site until an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site has been submitted to and approved in writing by the local planning authority. If the approved assessment concludes that a programme of archaeological work is required, no development (including any site clearance or groundworks of any kind) shall take place until a programme

of archaeological work has been completed in accordance with details which shall first have been submitted to and approved in writing by the local planning authority. The archaeological work will comprise archaeological trial-trenching of the proposed development area, followed by full excavation if archaeological features are identified. All fieldwork should be conducted by a professional recognised archaeological contractor.

**REASON** To establish the archaeological significance of the site given the archaeological potential of the site, in accordance with Policy D3 of the Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.

- 17 No development shall take place until details of arboricultural supervision visits to ensure the tree protection measures as set out in the Arboricultural Impact Assessment are set-up and maintained, along with details of any tree management works to be undertaken and when have been submitted to and approved in writing by the local planning authority. The development shall be carried-out in accordance with the approved details.

**REASON** In order to protect the character and appearance of the area, which is rural and a Conservation Area, in accordance with policies D1, D3 and H4 of the approved Maldon District Local Development Plan and the NPPF.

- 18 The public's rights and ease of passage over public footpath 4 (Maldon) shall be maintained free and unobstructed at all times.

**REASON** To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policy T2 of the approved 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, the site or part thereof shall be 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. Construction - the applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours:
  - 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.

4. Small Sewage Treatment Plants – if a sewage treatment plant or septic tank is installed the applicant must ensure that the plant and receiving watercourse complies with DEFRA's general binding rules. Please note that if the general binding rules cannot be complied with you may need to apply for an Environmental Permit to use the system. Please see [www.gov.uk](http://www.gov.uk) for more information on General binding rules for small sewage discharges.
5. 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.
6. 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. The applicant suggests that a soakaway or soakaways will be used to collect the surface water from this development. Essentially this will satisfy building control measures however, we have seen more of these systems fail due to capacity during periods of heavy rainfall. In a development of this size and type it would be favourable to include a more sustainable surface water option than a soakaway which might include water harvesting systems or similar. Where a soakaway is intended soil percolation tests should be undertaken in or calculated for winter months to mimic saturates soils.
7. The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath 4 (Maldon) shall be maintained free and



unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.