



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
6 APRIL 2022**

<b>Application Number</b>	<b>21/01160/VAR</b>
<b>Location</b>	Woodpeckers, 15 Mangapp Chase, Burnham-On-Crouch, CM0 8QQ
<b>Proposal</b>	Variation of condition 2 on approved planning permission 20/01288/FUL (Demolition of existing outbuildings and erection of 5 no. dwellings)
<b>Applicant</b>	Mr D Daniel
<b>Agent</b>	David James - Enhance Planning
<b>Target Decision Date</b>	14.01.2022 EOT requested
<b>Case Officer</b>	Hannah Bowles
<b>Parish</b>	<b>BURNHAM NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Not Delegated to Officers – Requires a Section 106 agreement to secure the payment of monies to the Council 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 affordable housing provision and subject to conditions as detailed in Section 8.

**2. SITE MAP**

Please see overleaf.



### 3. **SUMMARY**

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

- 3.1.1 The application site is located on the eastern side of Mangapp Chase, within the settlement boundary of Burnham-On-Crouch. The site comprises a residential dwelling set back from the streetscene, situated within a large plot, with various outbuildings. The surrounding area has a denser urban grain with mainly linear development fronting Mangapp Chase but also some cul-de-sac style developments.
- 3.1.2 Planning permission is sought for the variation of condition 2 on approved planning permission 20/01288/FUL, which approved the demolition of existing outbuildings and erection of 5 no. dwellings at the application site.

CONDITION 2 STATES:

*The development hereby permitted shall be carried out and retained in accordance with the following approved plans and documents:*

18/36/01  
18/36/02  
18/36/09  
18/36/06  
18/36/07  
18/36/11  
18/36/03 Rev A  
18/36/04 Rev B  
18/36/08

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

- 3.1.3 Below is a table of the approved plans that would be replaced by the proposed plans, should the application be approved.

<b>Approved plan under reference 20/01288/FUL:</b>	<b>Proposed replacement plan:</b>
18/36/07	SK.2113.1
18/30/04 B and 18/36/06	SK.2113.2A
18/36/11	SK.2113.3
18/36/03 Rev A	SK.2113.4

- 3.1.4 The above plans have been revised to reflect the proposed changes to the approved scheme, the proposed amendments are as follows:
- Plot 3 has changed from a bungalow to a two-storey dwelling with rooms within the roof space.
  - A single detached garage has been added to plot 3.
  - An additional floor has been created within the roof space of plots 1, 2, 4 and 5.
  - A front dormer window and two rooflights have been introduced to the dwellings in plots 1, 2, 3 and 4.
  - Two front dormer windows and three rear facing rooflights have been introduced to the dwelling in plot 5.

- The additional floorspace has triggered the requirement for affordable housing provision, due to the overall floor area of the proposal being over 1000sqm, measuring a total of 1502sqm (not including the floor area of the buildings to be demolished).

### **3.2 Conclusion**

- 3.2.1 The proposed variation of condition 2 of approved planning permission 20/01288/FUL would result in alterations to the house type in plot 3, the addition of a garage building in plot 3 and the addition of dormer windows and roof lights to provide a floor within the roof space for the five previously approved dwellings. The alterations are considered to be acceptable in principle and in relation to the visual impact on the surrounding area. Furthermore, the proposal would not affect the amenity of the neighbouring occupiers or detrimentally impact the parking provision or amenity space provided at the site. The proposed changes would result in the loss of a smaller 2-bed unit (plot 3). However, the alterations to the development have resulted in a requirement for affordable housing provision, which on balance is considered to significantly outweigh the loss of a smaller unit. Therefore, it is considered that the proposed amendments are in compliance with policies D1, H1 and H4 and of the Maldon District Local Development Plan (LDP) and overall, the scheme is acceptable. Therefore, the proposal is recommended for approval.

## **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
- 54-58 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

### **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
- H1 Affordable Housing
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- I1 Infrastructure and Services
- T1 Sustainable Transport
- T2 Accessibility



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

- Vehicle Parking Standards Supplementary Planning Document (SPD) (VPS)
- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide (MDDG)

#### **4.4 Necessary Associated Infrastructure Improvements Required and/or Affordable Housing**

- Affordable housing provision in the form of a Commuted Sum.

### **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 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.

5.1.2 Planning permission is sought for the variation of condition 2 on approved planning permission 20/01288/FUL, which granted permission for the demolition of existing outbuildings and erection of 5 no. dwellings. The variation sought seeks to amend plot 3, which was approved as a bungalow, to a two-storey dwelling with rooms within the roof space and a single garage is proposed to serve the plot. In addition, an additional floor within the roof space is proposed to serve plots 1, 2, 4 and 5 and dormers and rooflights have been proposed to achieve this.

5.1.3 The principle of 5 additional dwellings at the application site was established under the terms of application 20/01288/FUL. The determining factors in the assessment of this application are whether the proposed alterations are acceptable in terms of the visual impact on the character and appearance of the area and site, and any resulting impacts on the neighbouring properties, and the provision of car parking and amenity space.

5.1.4 Whilst it is noted that this application is a variation of conditions, application and additional accommodation and design features are proposed. However, it is not considered the proposed amendments result in development deviating so significantly from the original description that it would amount to a new proposal, and the description of the development would not be changed as a result of the proposed changes. As such, it is considered that the amended proposal falls within the restrictions of S73 of the Town and Country Planning Act 1990 (as amended).

5.1.5 Given the above assessment, it is considered that the variation to the development, previously approved under the terms of 20/01288/FUL, is acceptable in principle. Specific consideration of the material considerations that have changed as a result of the proposed changes are provided below.

#### **5.2 Housing Mix**

5.2.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply

position, the NPPF states that Local Planning Authorities (LPAs) 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 Five Year Housing Land Supply (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 NPPG 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 five four-bedroom dwellings. The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for 3 bed dwellings, specifically, 25-35% 2-beds and 40-50% 3-beds. Therefore, as the proposal relates to the provision of five 4-bedroom dwellings, it would not contribute towards supplying the greatest current housing needs in the district. Further, the dwelling currently approved to occupy plot 3, is a 2-bed dwelling and the amendments proposed under the terms of this application would result in the provision of a 4-bed dwelling in lieu of the two-bed unit. This element of the scheme weighs moderately against the proposal, this is discussed further in section 5.8 '*Planning Balance*'.

### **5.3 Affordable Housing**

- 5.3.1 Policy H1 of the LDP requires all housing developments of more than 10 units or 1000sqm to contribute towards affordable housing provision to meet the identified need in the locality and address the Council's strategic objective on affordable housing.
- 5.3.2 The previous application approved under the terms of application 20/01288/FUL, did not trigger the affordable housing requirement.
- 5.3.3 The proposed increased floor space of the development amounts to proposal having a total of 1,706sqm of floor space, including the proposed outbuildings. The Affordable Housing and Viability SPD states that the total floor area does not include the floor area of buildings to be demolished, which amounts to 209sqm. On this basis, the development would measure 1,502sqm triggering the requirement for affordable housing provision.
- 5.3.4 The Council's Strategic Housing Department has been consulted and have confirmed that the site would be subject to a 30% affordable housing requirement, which equates to 1.5 affordable units.

- 5.3.5 Policy H1 of the Local Development Plan 2014 - 2029 identifies that Affordable Housing should be provided on-site and only in exceptional circumstances where the Council consider accepting a financial contribution from the developer in lieu of on-site provision where the district's need for affordable housing can be better satisfied through this route.
- 5.3.6 Strategic Housing has raised concerns that a Housing Association may not consider such a small number of Affordable Housing units as an attractive opportunity as this, potentially, may not be cost effective to manage and the units proposed are 4-bedroom dwellings, which are contrary to the greatest need for smaller units as identified in the Council's Local Housing Needs Assessment 2021. Therefore, it is considered that in this instance a Commuted Sum would be beneficial to the Council rather than affordable units of the proposed size. Given this, it is considered that a commuted sum better satisfies the Council's affordable housing needs and therefore, exceptionally, a commuted sum is acceptable in this instance.
- 5.3.7 The Commuted Sum required for 1.5 affordable units has been calculated at £381,000.00 and the Applicant has confirmed they are willing to enter into a legal agreement to secure this sum.

#### **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.

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

- 5.4.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area.
- 5.4.6 Policy HO.8 of the Burnham-on-Crouch Neighbourhood Development Plan states that proposals for housing development should produce high quality schemes that reflect the character and appearance of their immediate surroundings.
- 5.4.7 The proposed amendments to the scheme include the addition of a floor within the roof space of plots 1, 2, 4 and 5. To accommodate the additional floor, a front facing dormer and a rear and side facing roof light has been added to the dwelling proposed to occupy plots 1, 2 and 4. Two front facing roof lights and three rear roof lights have been added to the dwelling proposed to occupy plot 5. The external alterations to the dwelling proposed to occupy plots 1, 2, 4 and 5 are considered to be relatively minor and given the presence of dormer windows within the vicinity of the site, it is not considered that the alteration to the original scheme would cause visual harm to the site or surrounding area, particularly having regard to the scheme previously approved.
- 5.4.8 The most notable amendment to the previously approved scheme is the change in the house type of the dwelling proposed to occupy plot 3, from a bungalow to a two-storey dwelling with rooms within the roof space. The house type would be identical to the slightly altered dwellings proposed to occupy plots 1, 2 and 4. Further, a single garage measuring 6.4m by 3.5m with a ridge height of 4m is proposed to serve plot 3. Having regard to the previously approved plans (under reference 20/01288/FUL), plot 3 is the only plot which was not previously proposed to be served by garage building.
- 5.4.9 Plot 3 is located in the north-east corner of the application site and the proposed dwelling would be set back from the public highway by around 65.8m.
- 5.4.10 The previously approved bungalow proposed to occupy plot 3 measured 15m in depth and 8.6m in width, with an eaves height of 2.6m and a ridge height of 5.9m. The dwelling proposed would be identical to those proposed to occupy plot 1 and 2 and would be a handed replica of the dwelling proposed to occupy plot 4. This house type is a two-storey hipped roof dwelling with rooms within the roof space. The dwelling features a front facing gable projection, a single storey rear projection, a front facing dormer window and side and rear facing rooflights. It would measure a maximum of 13.5m and 13.3m deep (including bay window and rear projection), with an eaves height of 5.2m and a ridge height of 9m.
- 5.4.11 Given that the house type would be identical that proposed to occupy plots 1, 2 and 4, it is not considered that it would form an out of keeping or overbearing addition to the site in terms of appearance and scale. The enlarged dwelling would be a more prominent feature, given the increased scale, most notably the height with a 3m increase. However, the form, scale and appearance of the proposed dwelling is considered to have more regard to the existing development in the area, which is largely two storey dwellings. In the absence of demonstrable visual harm arising from this aspect of the proposal, it is not considered that an objection in this respect should be raised.



- 5.4.12 The proposed single garage is considered to be acceptable in terms of its scale, design and siting to the front of the proposed dwelling. The garage building would appear traditional in appearance subordinate to the dwelling proposed to occupy plot 3.
- 5.4.13 Paragraph 135 of the NPPF states that *“Local planning authorities should also seek to ensure that the quality of an approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).”* In this case it is considered that the proposed amendments to the residential development are acceptable in this instance, the changes to plot 3 are considered to result in this plot being more cohesive with the remainder of the development, which are all two storey dwellings with detached outbuildings. Furthermore, dormer windows and roof lights are features present within the area. The dwellings would remain detached and two-storey, which is the predominant form of development within the surrounding area. Therefore, the quality of the approved development is not considered to be materially diminished, and the proposal is therefore not contrary to the above guidance.
- 5.4.14 Therefore, it is considered that the amendments to the previously approved development under the terms of application 20/01288/FUL, by reasons of the scale, design and appearance would not result in a demonstrable harm to the character and appearance of the site or the locality in accordance with policies D1 and H4 of the LDP.

## **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.
- 5.5.2 There were no concerns raised in terms of the impact of the proposal on residential amenity at the time of the previous application.
- 5.5.3 There have been no changes to the scheme in terms of layout and only a minor increase in the scale of the built form observed at the site, mainly relating to the increased scale of the dwelling proposed to occupy plot 3 and the addition of the proposed single garage. Further, rooflights and dormer windows are proposed to be added to the roof slopes of the proposed dwellings.
- 5.5.4 Although the dwelling proposed to occupy plot 3 has increased in scale, most notably by 3m in height. The proposed development is located a minimum of 14.65m from the closest neighbouring occupier, and the proposed single storey garage is located even further, around 19.5m. Therefore, it is not considered the amendments to the scale of the dwelling located within plot 3 would result in a dominating impact or loss of light, to the existing neighbouring occupiers given the separation distance.
- 5.5.5 In terms of overlooking, there are rooflights and dormer windows proposed within the roof slopes of all the proposed dwellings. There are two roof lights proposed to serve the dwelling within plot one. The roof light on the southern side elevation would be located 13.2m from the southern side boundary of the plot and 15.35m from the neighbouring dwelling no. 13. The roof light on the rear elevation would be 16.05m from the rear boundary of the plot and 19.5m from the existing dwelling within the site. The dormer window within plot one is front facing and located in excess of 34m from the neighbouring dwelling located on the opposite side of the road. Given the

size and location of the windows along with the separation distances, it is not considered that the proposed amendments to plot 1 would result in overlooking to the detriment of the living conditions of the existing or future occupiers of the neighbouring properties.

- 5.5.6 The rooflights and dormer windows within plot 2 are located in the same positions within the roof slope as those within plot 1, at a distance of 12.85m from the rear boundary of the plot which faces the front garden/driveway of the existing dwelling on site (proposed to be retained), 10.5m from the southern side boundary and 11.78m from the proposed dwelling within plot 1 (to the south), the dormer window would be in excess of 40m from the neighbouring property located opposite the site. As above, given the size and location of the windows along with the separation distances, it is not considered that the proposed amendments to plot two would result in overlooking to the detriment of the living conditions of the existing or future occupiers of the neighbouring properties.
- 5.5.7 In relation to plot 3, again the proposed windows are located in the same positions as those within plots 1 and 2; a front facing dormer which is located around 20m in a south-west direction from the existing dwelling within the site proposed to be retained, and a south facing roof light is located 4.1m from the side elevation of the dwelling proposed to occupy plot 4 and around 6m between the rooflight located on the northern roof slope of plot 4, and a rear facing rooflight is located in excess of 30m from the neighbouring property to the rear of the site. No concerns are raised in terms of the proposed dormer window or rear facing roof light, given the separation distance. Although there is only a separation distance of 4.1m between the south facing roof light and dwelling proposed to occupy plot 4, given the lack of a first-floor window within the northern elevation of plot 4 and the orientation and angle of the proposed roof lights in relation to each other, it is not considered that the amendments to plot 3 would result in overlooking.
- 5.5.8 In relation to plot 4, the proposed roof lights are located on the northern and rear roof slope and the dormer window is located on the front roof slope. The impact of the north facing roof light in relation to the proposed dwelling within plot 3, is the same as described above and is not considered to result in a demonstrable impact in terms of overlooking. The rear facing roof light would be located 18m from the rear boundary of the site and 27m from the neighbouring property to the rear. The front facing dormer window would be located 15.87m from the side elevation of the existing dwelling on site, which would be located on the opposite side of the access track. As above, given the size and location of the aforementioned windows along with the separation distances, it is not considered that the proposed amendments to plot 4 would result in overlooking to the detriment of the living conditions of the existing or future occupiers of the neighbouring properties.
- 5.5.9 In relation to plot 5 two front facing dormer windows are proposed and two rear facing roof lights. The proposed dormer windows would face plot 4 to the north, with a separation distance of around 8.6m to the front boundary of the site and 17.3m to the southern side elevation of the dwelling proposed to occupy plot 4. The dormer windows would have the same impact to plot 4, as the existing windows located on the front elevation of the dwelling within plot 5, given the separation distance this impact was previously found to be acceptable therefore, no concerns in relation to the proposed front facing dormers are raised. The rear facing rooflights are located in excess of 60m from the rear boundary of the site. Therefore, no concerns in respect to their impact are raised.

## **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.
- 5.6.2 There are no alterations proposed to the approved vehicular access point or track and therefore, no concerns in respect to highway safety are raised.
- 5.6.3 The previously approved parking arrangements for plots 1, 2, 4 and 5 have not been altered under the terms of this application and no additional bedrooms are required.
- 5.6.4 The dwelling within plot 3 has increased from a 2-bed dwelling to a 4-bed dwelling, resulting a requirement for three off-street parking spaces and a single garage has been proposed to serve the plot. Whilst the proposed garage at 6.4m by 3m, would fall short of the recommended size requirement contained within the VPS of 7m by 3m, it is noted that the outbuildings proposed at the time of the original scheme (to serve plots 1, 2, 4 and 5) fall short of the recommended standard by 1m, and this was deemed acceptable on the basis of *'Whilst these would measure marginally under the required depth, the parking standards take into account the fact that garages could be used for storage purposes. The proposed garages/carports would provide sufficient room to park a car and therefore there are no objections in this regard'*.
- 5.6.5 Given the stance previously taken in this respect and that the garage can accommodate a reasonable sized car, it would be unreasonable to discount the garage entirely as a parking space. Furthermore, the proposed garage would be 0.4m deeper than the previously approved garage, and in front of the garage space there would be space to park two vehicles. Therefore, no concerns in respect of car parking provision are raised.

## **5.7 Private Amenity Space and Landscaping**

- 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 The garden area for each dwelling, including the existing dwelling on the site, remains in excess of 100sqm and therefore there are no objections in this regard.

## **5.8 Planning Balance**

- 5.8.1 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.

5.8.2 The development of the site for five dwellings has previously been found to be acceptable. The changes to the scheme would result in a 2-bed dwelling, which at the time of determination was the districts greatest need being replaced with a 4-bed dwelling. Whilst the need assessment has changed, since the determination of the last application and evidence now indicates that the greatest need is for 3-bedroom dwellings the need for 2-bedroom dwellings is still greater than the need for 4-bedroom dwellings. The loss of the 2-bedroom property therefore, moderately weighs against the proposed alterations to the scheme. However, the provision of affordable housing, albeit a commuted sum, weighs heavily in favour of the development. This factor is considered to significantly outweigh the loss of the provision of a single 2-bed dwelling to the housing land supply.

5.8.3 This stance is substantiated by the recent appeal decision at 'Land 250M North of 16A Maldon Road, Burnham-on-Crouch' (APP/X1545/W/21/3283478) which highlights the District's needs for affordable homes:

*'The Council has a shortfall of 817 affordable homes, which is a very substantial shortfall in the context of a District where this equates to more than two years housing land supply for all types of housing. It is agreed that the need for affordable homes is acute and worsening. As with general housing, there is no realistic prospect of plan-led solutions. I therefore place very substantial positive weight on the proposed on-site affordable housing, including the five units to be allocated on the Phase 1 site. I also place substantial positive weight on the proposed contribution of circa £4.2m towards off-site affordable housing provision'.*

5.8.4 Overall, taking the above into account, the alterations to the previously approved development can be considered to be acceptable and the benefits of the scheme are considered to outweigh the harm.

## 6. ANY RELEVANT SITE HISTORY

- **90/00280/OUTO** - Erection of 3 No two storey houses with double garages and associated access - Approved
- **93/00694/FUL** - Single storey extension to existing dwelling to form granny annex - Approved
- **94/00440/FUL** - Single storey detached granny flat - Approved
- **04/00912/FUL** - Construction of new 2 bay garage and store - Approved
- **05/00469/FUL** - Two storey extensions to the existing house - Approved
- **20/01288/FUL** - Demolition of existing outbuildings and erection of 5 no. dwellings. - Approved.

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Burnham-On-Crouch Town Council	No response received.	Noted.

## 7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Housing Department	<p>Policy H1 of the Local Development Plan 2014 – 2029 identifies that Affordable Housing should be provided on-site. Only in exceptional circumstances would the Council consider accepting a financial contribution from the developer in lieu of on-site provision where the district's need for affordable can be better satisfied through this route. Strategic Housing has a concern that a housing Association may not consider the small number of Affordable Housing units as this may not be cost effective to them. The unit proposed is a 4-bedroom house which is contrary to the greater proportion for smaller units as identified in the Council's Local Housing Needs Assessment 2021. If a Commuted Sum was proposed, this would need to conform with the details set out in the Maldon District Strategic Housing SPD. To calculate the contribution required for a property or a percentage of a property it would be the cost to a Registered Provider that would be paid to the Developer for an affordable unit. The cost for a 4-bed affordable rented property that an RP currently pays to a developer is £254,000.00. Therefore, the Commuted Sum required for 1.5 affordable units would be £381,000.00. Should the Applicant propose a Commuted Sum in lieu of on-site affordable housing and Development Management support this Application, the issue of accepting a Commuted Sum would be determined by Members.</p>	Discussed in section 5.3 of this report.

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

### HEADS OF TERMS OF ANY SECTION 106 AGREEMENT

- Affordable Housing Commuted Sum
- Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

## CONDITIONS

1. The development hereby permitted shall be begun before the 2<sup>nd</sup> July 2024.  
REASON: To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
  
2. The development hereby permitted shall be carried out and retained in accordance with the following approved plans and documents:
  - 18/36/01
  - 18/36/02
  - 18/36/09
  - SK.2113.2A
  - SK.2113.1
  - SK.2113.3
  - SK.2113.4
  - 18/36/08REASON: To ensure that the development is carried out in accordance with the details as approved.
  
3. Prior to their use in the development hereby permitted, full written details and photographs of the external materials used in the development hereby approved shall be submitted and approved in writing by the local planning authority. The development shall be carried out in accordance with the 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. No development shall commence until information has been submitted and approved in writing by the local planning authority in accordance with the requirements of BS5837:2012 in relation to tree retention and protection as follows:
  - Tree survey detailing works required
  - Trees to be retained
  - Tree retention protection plan
  - Tree constraints plan
  - Arboricultural implication assessment
  - Arboricultural method statement (including drainage service runs and construction of hard surfaces)

The protective fencing and ground protection shall be retained until all equipment, machinery and surplus materials have been removed from the site. If within five years from the completion of the development an existing tree is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, a replacement tree shall be planted within the site of such species and size and shall be planted at such time, as specified in writing by the local planning authority. The tree protection measures shall be carried out in accordance with the approved detail.

REASON: To protect the trees on site and the amenity and rural character of the area, in accordance with policies D1 and H4 of the LDP and the guidance contained within the NPPF.
  
5. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved



in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period.

The Plan shall provide for:

- a) the parking of vehicles of site operatives and visitors
- b) loading and unloading of plant and materials
- c) storage of plant and materials used in constructing the development
- d) wheel and underbody washing facilities

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: In the interests of pollution and contamination and to ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety in accordance with policies D1 and T2 of the submitted Local Development Plan.

6. The development shall be undertaken in accordance with the terms and specifications contained within the Ecology Report (MH1187 V1 dated 03.12.2020) which is attached to and forms part of this permission.

REASON: To ensure that protected species are not harmed during the course of development and that appropriate mitigation measures are in place to protect any species present on site in accordance with Policy N2 of the Maldon District Local Development Plan, and Government guidance as contained within The National Planning Policy Framework.

7. Full details of both hard and soft landscape works 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, for example:
- i. Proposes finished levels contours;
  - ii. Means of enclosure;
  - iii. Car parking layouts;
  - iv. Other vehicle and pedestrian access and circulation areas;
  - v. Hard surfacing materials;
  - vi. Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting);
  - vii. Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc, indicating lines, manholes, supports);
  - viii. Retained historic landscape features and proposals for restoration, where relevant.

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.

The hard landscape works shall be carried out as approved prior to the first use/occupation 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.

8. 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 policy D1 of the Maldon District Local Development Plan and the National Planning Policy Framework.
9. 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 m in

volume) shall be erected within the site without planning permission having been obtained from the local planning authority.

REASON: To protect the visual amenity of the rural area and the amenities of the neighbouring occupiers in accordance with policies D1 and H4 of the Maldon District Local Development Plan and the Maldon District Design Guide.

10. No works above ground level shall take place 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 the adequate provision of surface water drainage within the proposal and to encourage sustainable forms of drainage within development in accordance with the National Planning Policy Framework, and policy D5 of the Maldon District Local Development Plan.
11. No development work above ground level shall occur until a detailed Sustainable Urban Drainage Scheme as specified in the Essex Sustainable Drainage Systems Design Guide has been submitted in writing by the local planning authority. This must be conducted by a competent person and include written explanation of any data provided. The scheme shall subsequently be implemented prior to occupation of the development and should include and not be limited to:
- Discharge rates/location
  - Storage volumes
  - Treatment requirement
  - Detailed drainage plan
  - A written report summarising the final strategy and highlighting any minor changes to the approved strategy

Where the surface water drainage strategy proposes the use of soakaways the details of the design and the results of a series of percolation tests carried out upon the subsoil in accordance with DG 365 2016. You are advised that in order to satisfy the soakaway condition the following details will be required: 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.

Where discharging to a watercourse the proposed scheme shall include details of the destination and discharge rates equivalent to "greenfield runoff" up to and including a 1 in 100-year rainfall event inclusive of climate change. This is typically achieved by installing some form of attenuation on site e.g. temporary storage. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s). If the land is designated as a Brownfield Site, it should aim to limit run-off for a storm event that has a 100% chance of occurring each year (1 in 1 year event) OR demonstrate 50% betterment of the current rates.

The applicant must demonstrate that the system is an appropriate point of discharge for the site. The discharge hierarchy should be used to determine discharge location. This is particularly important when considering greenfield development which may currently discharge to a sewer but may have the capacity to discharge to a watercourse or to the ground.

If not, then further information/assessment will be required to determine the suitability of the system to convey the proposed flows and volumes of water.

Evidence will be required that the development will not increase risk to others. If the proposed discharge point is outside the development site, then the applicant will need to demonstrate that the necessary permissions and or agreements to achieve connection are possible.

Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.

Prior to first occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed in writing, by the local planning authority. REASON: To ensure the adequate provision of surface water drainage within the proposal and to encourage sustainable forms of drainage within development in accordance with the National Planning Policy Framework, and policy D5 of the Maldon District Local Development Plan.

12. No dwelling hereby approved shall be occupied until the car parking spaces have been laid out for each plot and sufficient space for vehicles to turn so that they may enter and leave the site in forward gear has been provided, in accordance with drawing no SK.2113.4 Proposed Site Plan, and that space shall thereafter be kept available for such purposes in perpetuity. REASON: To ensure appropriate parking is retained at the site in accordance with the VPS, policies D1 and T2 of the LDP and the guidance contained within the NPPF.
13. No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title, has submitted an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site. Such archaeological assessment shall be approved by the local planning authority and will inform the implementation of a programme of archaeological work. The development shall be carried out in a manner that accommodates such approved programme of archaeological work. REASON: To protect the historic character of the site, in accordance with policy D3 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.
14. No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title, has secured the implementation of a programme of archaeological work from an accredited archaeological contractor in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in a manner that accommodates the approved programme of archaeological work. REASON: To protect the historic character of the site, in accordance with policy D3 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.
15. Prior to first occupation of the development, the Developer shall be responsible for the provision, implementation, and distribution of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one-day travel vouchers for use with the relevant local

public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies S1 and T2 of the LDP and the guidance contained within the NPPF.

16. Notwithstanding the details on the planning drawing No. SK.2113.4 prior to first occupation of the development, the shared vehicle access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall be narrowed to no more than 6m wide for the first 6m within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge to the specifications of the Highway Authority.  
REASON: In the interests of highway safety, in accordance with policy T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.
17. Prior to first occupation of the development, and as shown in principle on planning drawing No. SK.2113.4 the vehicular access for the single dwelling shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge.  
REASON: In the interests of highway safety, in accordance with policy T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.
18. Prior to occupation of the development, each access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4m by 4 m in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access road is first used by vehicular traffic and retained free of any obstruction at all times.  
REASON: In the interests of highway safety, in accordance with policy T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.
19. No unbound material shall be used in the surface treatment of the vehicular access within 6m of the highway boundary.  
REASON: In the interests of highway safety, in accordance with policy T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.
20. There shall be no discharge of surface water onto the Highway.  
REASON: In the interests of highway safety, in accordance with policy T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.

## **INFORMATIVES**

1. Waste management - the applicant should consult the waste and street scene team at Maldon District Council (MDC) 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. 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.