



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**DISTRICT PLANNING COMMITTEE
27 OCTOBER 2022**

Application Number	22/00887/OUTM
Location	Land North West of 2, Maldon Road, Burnham-On-Crouch, Essex
Proposal	Outline Application with all Matters of Detail Reserved for Future Determination (Except for Layout and Means of Access to the Site) to Extend Approved Retirement Community to North and East Including Additional Affordable Housing: Erect 203 Dwellings Comprising 143No. One, Two and Three-Bedroom Bungalows, 60No. One, Two, and Three-Bedroom Apartments in Two-Storey Buildings. Lay Out Estate Roads, Footpaths, Vehicle Parking and Surface Water Drainage Infrastructure Including Swales and Detention Basins. Form Public Open Spaces Including Greenway, Orchards and Allotments and Lay out Hard and Soft Landscaping
Applicant	Mr Ian Holloway - Think Green Land Limited
Agent	Mr Stewart Rowe - The Planning and Design Bureau Ltd
Target Decision Date	30.11.2022
Case Officer	Kathryn Mathews
Parish	BURNHAM TOWN COUNCIL
Reason for Referral to the Committee / Council	Major application

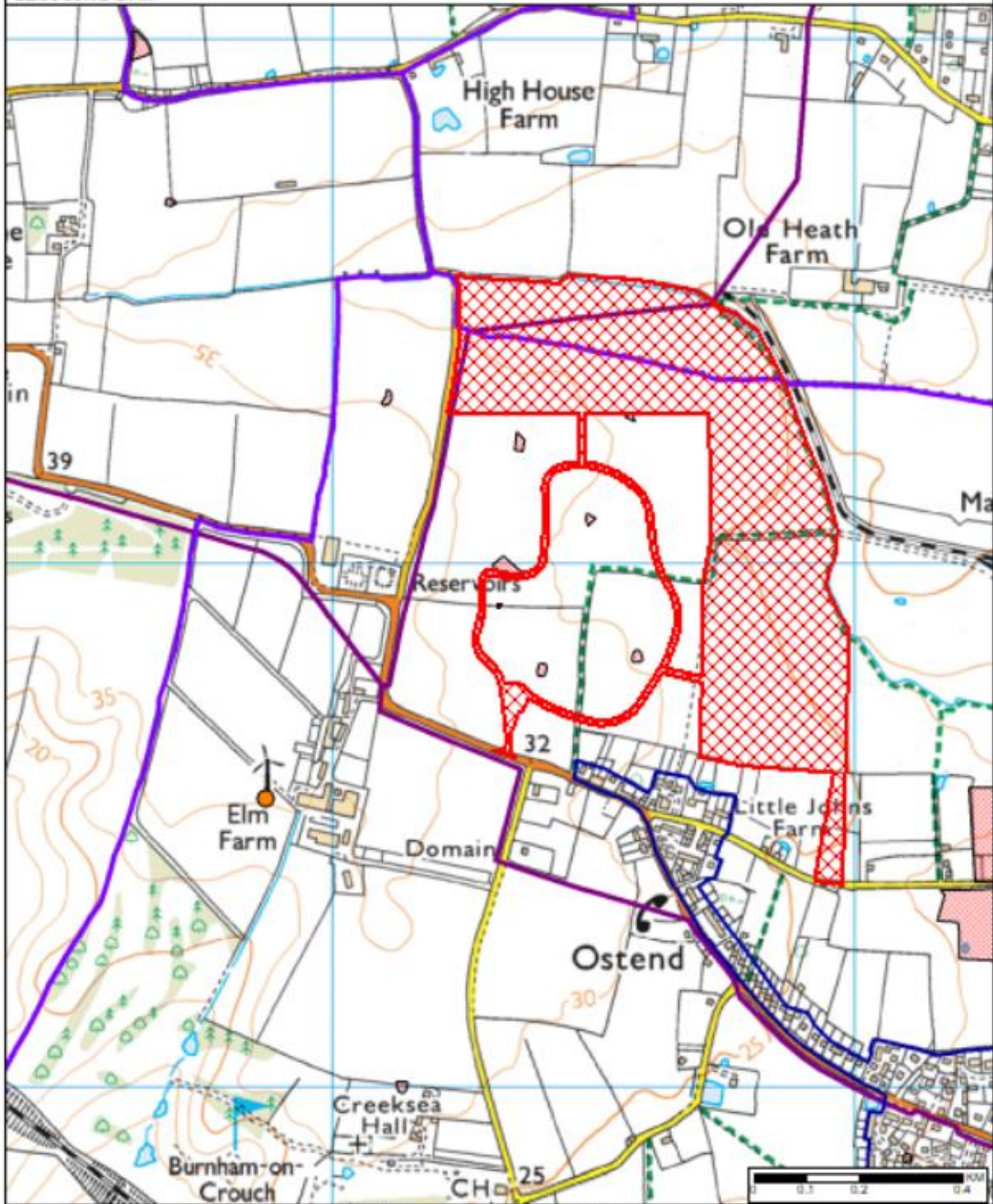
1. RECOMMENDATION


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 planning obligations and subject to conditions as detailed in Section 8.

2. SITE MAP

Please see below.

Land NW of 2 Maldon Road, Burnham on Crouch
 22/00887/OUTM



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	District Planning Committee
	Date:	07/10/2022
	MSA Number:	100018588
www.maldon.gov.uk		

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site (32.25ha) is located within the countryside beyond any settlement boundary. However, Burnham-on-Crouch's settlement boundary is located around 50m to the south of the application site at its closest point.
- 3.1.2 The land is bounded to the south and west by a site to be developed as a retirement community to be known as Burnham Waters providing homes for residents over 55 (Phase 1 - application references 18/00443/OUT approved in September 2019 and 20/00846/RES approved in October 2020 and Phase 2 application reference 21/00075/OUTM approved in March 2022). That development will consist of bungalows organised in cul-de-sac communities, with additional assisted living apartment blocks. A range of healthcare and leisure facilities will be included. This retirement community is to be constructed on land on the north side of the B1010 Maldon Road on the north-western edge of the settlement of Ostend (located to the north-west of Burnham-on-Crouch). It is understood that construction work on the approved development commenced in May 2022. The whole retirement community (all three phases) would cover around 35.8ha.
- 3.1.3 To the south and east of the site are a collection of existing properties fronting Maldon Road, Green Lane and Mangapp Chase. The houses along Maldon Road are particularly close to the southern boundary of the retirement community. Land to the north and east of the site is currently in use for arable farming, with fields separated by tree lines, hedgerows, and drainage ditches. Pannell's Brook, a small stream that runs adjacent to a Public Right of Way (PRoW) forms the northern and eastern boundaries of the site. To the south-east is the settlement of Ostend, which includes the recently built Grangewood Park development of new homes.
- 3.1.4 There are multiple PRoWs within the landscape. There is a PRoW which crosses the site. A ditch and hedgerow run in an east-west direction including PRoW 242-1, all of which link with Phases 1 and 2. Part of PRoW 242_33 runs along the site's eastern boundary linking with Green Lane. The ditch is hydraulically linked to Pannell's Brook. Tinkers Hole adjoins the site's western boundary, separated by a hedgerow. There is a gas main within the site along the western boundary (with a 6m easement). A water main (with an 8m easement) runs within and along the southern site boundary.
- 3.1.5 Part of the southern boundary of the site adjoins the rear gardens of dwellings fronting Green Lane; the remainder of this boundary adjoins paddocks with dwellings beyond.
- 3.1.6 The L-shaped site slopes from southwest to the north / north-east and east into Pannells Brook, and gently upwards from east to west. The northern boundary of the site falls from Tinkers Hole (to the west) to the eastern boundary (by around 13m). Ground levels fall from south to north across the site (by around 3.5m)
- 3.1.7 The site is currently agricultural land used for arable farming (Grade 3 – good to moderate). The majority of the site is located within Flood Zone 1 (low probability).
- 3.1.8 The application has been submitted in outline form with all matters of detail reserved for future determination except for the layout of the site and the means of access to the site. The proposal is described as the final phase of the retirement community proposed on adjacent land. For ease, this neighbouring approved development will

be referred to as Phases 1 and 2 and the development currently proposed, as Phase 3.

- 3.1.9 The primary means of access to the site would be from Maldon Road B1010 and the internal spine roads approved as part of Phases 1 and 2. However, an additional 4m wide access is proposed onto Green Lane as alternative means of access by emergency vehicles and pedestrians and cyclists at all other times.
- 3.1.10 In terms of layout, the bungalows would be in groups (five to thirty) along the outer edge of the dwellings proposed with two storey apartments behind (to the east of the two-storey apartment buildings approved as part of Phase 2). The density of the residential development proposed would be low being an average of 8.8dph (dwellings per hectare) within 23ha of the site. The remainder of the site (typically more than 50m in width) extending to 9.25ha would be public open space around the outer edge of the site. The density of the development would be lower than Phases 1 and 2.
- 3.1.11 The development proposed would consist of 62no. one- bedroom units (31%), 103no. two-bedroom units (51%) and 38no. three-bedroom units (19%). The indicative accommodation schedule submitted is as follows:
- 3.1.12 Affordable bungalows – 30no. affordable rent in the south-eastern corner of the site and 14no. intermediate tenure in the north-western portion of the site.

Market bungalows	No.	Market apartments	No.		No.
1 bed	27	1 bed	7		34 (24.1%)
2 bed	54	2 bed	16		70 (49.6%)
3 bed	18	3 bed	20		38 (27.0%)
TOTAL	99	TOTAL	42	TOTAL MARKET	141
Affordable bungalows					
Affordable bungalows	No.	Affordable apartments	No.		No.
1 bed	19	1 bed	9		28 (45.9%)
2 bed	25	2 bed (4 Person)	8		33 (54.1%)
3 bed	0	3 bed	0		0
TOTAL	44	TOTAL	17 (or equivalent financial contribution)	TOTAL AFFORDABLE (30.05%) Tenure 77% affordable rent / 23% intermediate	61

- 3.1.13 It is stated that all of the bungalows will be constructed for wheelchair use and the apartments will be wheelchair adaptable. Each bungalow would be provided with two, on-plot parking spaces. Plot 'boundaries' would be formed with landscaped features rather than physical fences or walls to foster a sociable community for residents. Whilst the application is outline in nature it has been indicated that each bungalow would be provided with small private terraces as well as larger, communal semi-private open spaces for each group of bungalows.

- 3.1.14 Details of the scale of the development, the appearance of the buildings and landscaping are matters which are reserved for future approval i.e. Reserved Matters. It is suggested that the appearance of the buildings would be comparable to those approved as part of Phase 1.
- 3.1.15 A Landscape Strategy has been submitted as part of the application. A Management Company would be established which would retain the freehold title of all communal land (roads, footpaths, landscaping etc.). A service charge would be made to owners of the bungalows and apartments which would cover grounds maintenance, foul and surface water drainage and other utility services, the provision of refuse and recycling services etc. This would be the same Management Company to be established for Phases 1 and 2 which has been secured through the related Section 106 Agreement.
- 3.1.16 Four attenuation ponds are proposed as part of the surface water drainage strategy for the site to be within the greenway along with a Local Equipping Area for Play (LEAP), information boards, allotments, picnic benches, orchards and informal play areas. The ponds would also create habitats and broaden biodiversity.
- 3.1.17 Foul drainage would be pumped, via Phase 1, to the foul sewer within B1010 Maldon Road.
- 3.1.18 The application is accompanied by a number of supporting documents:
- Planning Statement;
 - Design and Access Statement including Refuse Strategy;
 - Appropriate Assessment (July 2022);
 - Habitats Regulation Assessment Report;
 - Environmental Impact Assessment (EIA) Screening Report;
 - Bio-diversity Net Gain Assessment (to be submitted);
 - Health Impact Assessment (July 2022);
 - Landscape Strategy (July 2022) – Landscape Masterplan drawing; Landscape Strategy drawing;
 - Landscape and Visual Appraisal (July 2022) and photo-montages
 - Preliminary Ecological Assessment (July 2022)
 - Tree Survey and Arboricultural Impact Assessment (July 2022)
 - Flood Risk Assessment (including foul drainage strategy) (July 2022)
 - Phase 1 Geo-Environmental Assessment (May 2022)
 - Air Quality Screening Assessment (July 2022)
 - Transport Assessment (July, 2022)
 - Catchment Assessment - Surface Water Drainage Report (October 2020)
 - Illustrative Completion Phase Accommodation Schedule
 - Draft Heads of Terms – S106 (Section 106) Agreement;
 - Essex County Council -SuDS (Sustainable Drainage Systems) Checklist;
 - Topographical Survey, 8 drawings: 14885/JD1 – 14885/JD8
- 3.1.19 In support of the proposal, it is stated that the retirement community as a whole (all three phases) would provide 56% (378 bungalows) of the need identified in the Local Housing Needs Assessment (LHNA) for wheelchair user standard properties to the period 2040, would assist in meeting the need for a significant number of 'units with support' identified in the LHNA and encourage downsizing. The Local Planning Authority (LPA) has identified a current significant, cumulative shortfall of 942

affordable homes in the District (more than the 817 at the time of previous appeal). Even with the development there would still remain a considerable shortfall of specialist market housing suitable for elderly persons.

3.2 Conclusion

- 3.2.1 The development has been assessed as being acceptable in principle, overall, taking into account the substantial benefits of the proposal which would outweigh the harm the development would cause to the character and appearance of the area and farmland birds. In particular, the provision of specialist housing for the elderly (which Maldon District residents would be given priority to) would weigh heavily in favour of the development. There would also be notable economic benefits generated.
- 3.2.2 The development is not anticipated to cause material harm to the amenity of the occupiers of existing residents, highway safety or nature conservation. It is also anticipated that the development is likely to be satisfactory in terms of flood risk and drainage. Matters relating to land contamination and archaeology could be adequately addressed through the imposition of conditions. Provision for adequate levels of parking could be made.
- 3.2.3 The applicant has agreed to enter into a Section 106 Agreement to address matters arising in relation to off-site medical provision, road junction capacity issues and nature conservation impacts as well as other necessary obligations relating to affordable housing, phasing matters, public open space, employment and accessibility.

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
- 60-80 Delivering a sufficient supply of homes
- 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

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

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- S6 Burnham-on-Crouch Strategic Growth
- D1 Design Quality and the Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D4 Renewable and low Carbon Energy Generation
- D5 Flood Risk and Coastal Management
- E1 Employment
- E3 Community Services and Facilities
- E6 Skills, Training and Education
- H1 Affordable Housing
- H2 Housing Mix
- H3 Accommodation for 'Specialist' Needs
- H4 Effective Use of Land
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity
- N3 Open Space, Sport and Leisure
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services
- I2 Health and Wellbeing

4.3 Adopted Burnham-on-Crouch Neighbourhood Plan (BOCNP) (relevant even though the site lies outside the area covered by the BOCNP):

- Policy S1 – Strategic Housing Growth
- Policy EN.2 – New Development and Flood Risk
- Policy HO.2 – Range and Type of New Residential Development
- Policy HO.3 – Housing for Retired and Elderly Persons
- Policy HO.4 – Affordable Market Housing
- Policy HO.8 – Housing Design Principles

4.4 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide Supplementary Planning Document (SPD) (2017) (MDDG)
- Maldon District Special Needs Housing SPD (2018)
- Maldon District Vehicle Parking Standards SPD (2018)

- Essex coast recreation Disturbance Avoidance Mitigation Strategy (RAMS)

4.5 Necessary Associated Infrastructure Improvements Required and/or Affordable Housing

4.5.1 The application is accompanied by a draft list of Heads of Terms for a Section 106 Agreement as follows:

- No development to commence until 200th dwelling on Phase 2 has been completed and ready for occupation
- No development to commence until the health centre, shops and mini-bus service approved as part of Phase 1 have been constructed / delivered and are operational
- No market dwelling to be occupied other than by persons over 55 years of age
- A cascade mechanism to be agreed to prioritise occupation of all units to residents of the District of Maldon (as per Phases 1 and 2)
- Provision, retention and future management and maintenance of community open space and strategy landscaping
- Create / nominate Management Company with responsibility for future management and maintenance of children's play area, private open spaces, footways, related lighting, street furniture, signage etc. and all landscaping
- Extend permissive bridleway from Phase 2 through Phase 3 to countryside edge beyond
- Total number of affordable housing units not less than 30% of total number of self-contained dwellings (rounded -up) subject to an Affordable Housing Scheme (type, tenure, location, design standards etc.)
- Affordable units to provide 14no. intermediate tenure bungalows, 30no. affordable rent bungalows, 17no. affordable rent apartments, and only occupied by persons over 65 years of age
- Affordable housing tenure split 75% affordable rent / 25% intermediate housing
- Affordable housing to be constructed and transferred to a Registered Provider prior to occupation of 150th market dwelling
- Financial contribution towards health care as required by the NHS and provide a range of care and support packages for the residents
- Financial contribution (£25,000) for off-site highway improvements to B1010/B1021 junction / or for local public transport improvements
- Residential Travel Plan
- Two bus stops along loop road in Phase 2
- Electric cycles and recharging points and associated infrastructure
- Extend Phases 1 and 2 minibus service into Phase 3
- Extension to public footpath PROW 242_33 to link to Tinkers Hole Road
- Provide public open space (greenways) and a LEAP before occupation of 200th dwelling; offer greenways to District Council for adoption at nil cost or transfer to a Management Company
- Financial contribution towards RAMS
- Prohibition of development commencing or preparatory work until Natural England licence(s) issued, if necessary

- Information on site (all three Phases) and app / website to support RAMS and encourage recreation away from sensitive estuarine habitats
- Offer skills training packages (as per Phases 1 and 2)
- Offer employment opportunities to local persons first (as per Phases 1 and 2)

5. MAIN CONSIDERATIONS

5.1 The main issues which require consideration as part of the determination of the application are the principle of the development, the impact of the development on the character and appearance of the area, the impact on the amenity of existing residents, highway safety / access / parking matters, the quality of life for the occupiers of the proposed residential units and flood risk / drainage. The impacts of the development on nature conservation, land contamination, air quality and archaeology would also need to be assessed.

5.2 The application is accompanied by an Environmental Impact Assessment (EIA) report which concludes that the development proposed is not EIA Development. Officers have yet to carry-out a Screening Opinion for the development. In relation to Phases 1 and 2, it was considered that all of the relevant planning considerations could be adequately assessed based on the specialist reports submitted as part of the applications and in consultation with the relevant Statutory Consultees without the need for an Environmental Impact Assessment. The assessment below is on the basis that the development is not EIA Development, in this case.

5.3 Principle of Development

5.3.1 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 Local Development Plan (LDP).

5.3.2 Policy S1 of the LDP states that *'When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF'* and apply a number of key principles in policy and decision making set out in the Policy.

5.3.3 Policy S8 of the LDP steers new development towards the existing urban areas. This Policy does allow for development outside the rural areas where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided that it is for specified purposes. These specified purposes do not include new build general residential properties but does allow (m) development which complies with other policies of the LDP. Policy I2 states that suitable types of residential development which cater for the ageing population and support healthy and independent lives will be provided. Policy H3 also supports the provision of housing for 'specialist' needs. Therefore, it is considered that exception (m) applies in this case which accords with the conclusions of the Inspector as part of the previous appeal.

5.3.4 Policy HO.1 of the Burnham-on-Crouch Neighbourhood Plan is similarly clear and consistent with the Development Plan where it states that *"Proposals will be supported for residential development provided that it complies with the requirements set out in other policies of this Plan and the Development Plan"*.

5.3.5 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 3.66 years of housing land supply.

5.3.6 Where a Local Planning Authority is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the 'Tilted Balance'. This position is set out in paragraph 11d, together with its footnote 7, 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 7 - 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).

5.3.7 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 Local Planning Authority (LPA) in its application of NPPF policies applicable to conditions where the 5YHLS cannot be demonstrated (Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37).

5.3.8 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. Furthermore, 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'*.

5.3.9 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.

5.3.10 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1

re-iterates the requirements of the NPPF. 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 proposals outside of the defined development boundaries could be judged to be 'sustainable development' through the three dimension tests of the NPPF, the LPA is obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme.

5.3.11 Paragraph 78 of the NPPF states that:

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

5.3.12 The application site is located outside of the defined settlement boundary of Burnham-on-Crouch, a town that is classified as one of the three "main settlements" within the District, as detailed within policy S8 of the LDP. The impact of the proposed development on the character and intrinsic beauty of the countryside should be assessed as well as whether the development constitutes sustainable development.

5.3.13 It is noted that, as part of the previous appeal, the Inspector considered that Phase 2 complied with Policy S1 in that, development in this area (in general) is not inappropriate given its proximity to Burnham-on-Crouch. There are considered to be no new material considerations that would conflict with the decision of the Inspector when determining the last appeal.

5.3.14 Environmental Dimension

5.3.14.1 Accessibility is a key component of the environmental dimension of sustainable development and also is the basis of criteria 2 and 5 of Policy H3. Policy T1 aims to secure the provision of sustainable transport within the District and Policy T2 aims to create and maintain an accessible environment.

5.3.14.2 The application site is on the outskirts of Burnham-on-Crouch and the proposal would be an enlargement (Phase 3) of the retirement community for which planning permission has been granted on adjoining land (Phases 1 and 2). As part of the assessment of Phases 1 and 2, it was considered that the development, although not immediately adjacent to the town centre of Burnham-on-Crouch, would provide adequate access to everyday services for the occupiers of the development. It is considered that there are insufficient and unsustainable grounds for a different view to now be taken as there has been no material change to the accessibility of the area. The occupiers of Phase 3 would have the same level of access to local services and facilities as those who would occupy the approved Phases 1 and 2. Furthermore, it is important to note that Phase 1 was granted at a time when the Council was able to demonstrate a 5YHLS.

5.3.14.3 As part of the Transport Assessment submitted it is noted that the site is within a short distance of Burnham-on-Crouch which has a range of facilities with transport connections to wider facilities including banks, building societies and postal services, cafes, coffee shops, take-away food services and restaurants, pharmacies, supermarkets, golf club, parks and outdoors areas and village hall. In terms of

access to existing, local services and facilities for occupiers of the development proposed, reference is made to Sherlock's Café around 115m to the east and a petrol filling station and shop around 450m to south-east, both along the B1010. The occupiers of the proposed development would also have access to the facilities and services within Phases 1 and 2.

5.3.14.4 The railway station and a Co-op food store are located around 2km to the south east of the site, along with a newsagent, post office, shops, pharmacy, public house, hot food takeaway etc. all located around the junction of the B1021 Church Road and Foundry Lane. Burnham-on-Crouch High Street is around 3km from the site. As part of the application, it is suggested that a walking distance of under 2km and cycling distances of less than 5km are considered to be reasonable. As part of the approved Phase 1, a footpath would be provided on both sides of the B1010 between the entrance to Phase 1 and the existing roadside footpath so there would be a roadside footpath which linked the development to the abovementioned junction. Access to employment and education facilities would not be a significant issue in this case due to the type of residential accommodation proposed.

5.3.14.5 In terms of public transport infrastructure, a request bus stop exists on both sides of the B1010 Maldon Road around 70m to the east of Phase 1 providing access to the following bus services:

- 31B/D/X (Burnham-Maldon-Chelmsford): commences 05:55 weekdays and is hourly (half hourly before 09:00) Monday to Friday with a more limited service on Saturdays and Sundays.
- 593 (Althorne-Burnham-Southminster-Mayland-Cold Norton-South Woodham Ferrers): one service mornings and afternoons during term time Monday to Fridays.
- D7 (Burnham-Althorne-Mayland-Cold Norton): one service mornings and afternoons during term time Monday to Fridays.
- 510 (Southminster-Danbury-Burnham): one service mornings and afternoons during term time Monday to Fridays, and;
- FC03 (Woodham Ferrers-Althorne-Burnham-Southminster): one service mornings and afternoons during term time Monday to Fridays.

5.3.14.6 As part of the previous approval (18/00443/OUT) a public transport contribution of £75,000 has been secured as part of the Section 106 Agreement to support improved public transport service provision and bus stops are to be provided as part of the development approved. As part of this, Essex and Suffolk DaRT (Demand Responsive Transport) CIC (Community Interest Company), which operates Dengie bus services, has agreed to service Phase 1. The Dart 5 is a dial and ride service running between Burnham-on-Crouch and South Woodham Ferrers that operates between 06:00 and 20:00 Mondays to Fridays. Essex County Council (ECC) Highways did not consider that any further improvements to public transport provision were necessary as part of Phase 2. In addition to the improved bus service referred to above, a privately-operated minibus service is to be provided into Burnham-on-Crouch, three times a day and seven days a week which would provide greater access to the wider community for residents and also provide staff working within the site a sustainable travel option to and from their workplace. Furthermore, it is stated that electric cycles will be available on site for residents to use.

5.3.14.7 Based on the above, although the application site is located within the rural area, the occupiers of the site would have access to a reasonable amount of services and facilities either within the retirement community itself or within the neighbouring town of Burnham-on-Crouch to meet the day to day needs of the future occupiers without

there being an over-reliance on private means of transport. Paragraph 105 of the NPPF which states that *“The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes”*. Therefore, it is considered that the site has a reasonable level of accessibility and the occupiers of the site would not be overly reliant on the use of private vehicles, which weighs in favour of the proposal. This accords with the conclusions of the Inspector in relation to the previous appeal who concluded that *‘the appeal site does not represent an inappropriate location for development in principle’*, in compliance with criterion 5 of Policy H3 and Policies T1 and T2 of the LDP.

5.3.14.8 The other elements of the environmental dimension (which would include the impact on the character and appearance of the area, nature conservation, residential amenity, flood risk / drainage, land contamination, air quality and archaeology) are discussed below.

5.3.15 Social Dimension

5.3.15.1 In terms of the social dimensions of sustainable development, the development would contribute towards the supply of housing, particularly specialist housing, within the District.

5.3.15.2 Whilst the LDP carries limited weight at present due to the lack of a 5YHLS and consequent impact on its housing delivery policies in particular (including those policies which define settlement boundaries), the NPPF is clear that housing should be provided to meet an identified need.

5.3.15.3 Policies S2 and S6 of the LDP suggest that the infrastructure of Burnham-on-Crouch is limited on the basis of which development above the identified limit of 450 dwellings would not be supported. This is also supported by the Burnham-on-Crouch Neighbourhood Plan. However, each case needs to be assessed on its own merits and no deficiencies in terms of infrastructure provision have been identified as part of the assessment of the proposal that could not be satisfactorily overcome through the imposition of conditions or through a Section 106 Agreement (as discussed elsewhere in this report). Therefore, without the ability to demonstrate harm, it is considered that an objection based on the exceedance of this 450 dwelling limit could not be sustained. The application has been accompanied by documents to support the number and type of residential units proposed. Furthermore, no Statutory Consultee has raised an objection to the proposal based on any perceived infrastructure constraints. Furthermore, as often stated in appeal decisions, housing numbers in development plans should not be wholly considered as ‘ceilings’ to development. The Inspector, at section 50 of the appeal decision on Phase 2 (21/00075/OUTM) states, *‘The need for housing is therefore critical, acute and deteriorating. Providing more housing is one of, if not the most, important aspirations of local and national planning policy. I therefore place very substantial positive weight on the proposed housing’*.

5.3.15.4 Policy I2 sets out that the aim of the Council is to improve health and wellbeing. This would be achieved by:

- 1) *Addressing health issues identified in the Maldon HNA and other plans and initiatives produced by Essex Public Health, NHS England, the Mid Essex Clinical Commissioning Group, Essex Health & Wellbeing Board or any associated or successor bodies, to deliver modern healthcare which meets the needs of the District;*

- 2) *Maximising accessibility to services, particularly for vulnerable groups, through better service integration and locating new services where access can be improved;*
- 3) *Promoting suitable types of residential developments which cater for the ageing population and support healthy and independent lives; and*
- 4) *Ensuring increased access to the District's green spaces and opportunities for higher levels of physical activities.*

5.3.15.5 Paragraph 8.24 of policy I2 clarifies the type of residential accommodation that would be encouraged by the Council, which would include housing especially suitable for older people, either because of the dwelling type (e.g. bungalows), specific design features (including 'lifetime homes') or because of adaptations to suit older people's needs, or by specialist housing for elderly people. It is considered that the proposal complies with Policy I2 in this respect.

5.3.15.6 Policy H3 of the LDP further describes the required accommodation for specialist needs, which derives from evidence contained in the Older Persons Housing Strategy (2010) and Strategic Housing Market Assessment (SHMA) (2012) considered in support of the Local Plan. This states that:

"Proposals for specialist needs housing such as homes for older people, people with disabilities, or homes for other specific groups who may require properties that are specifically designed and / or allocated will be supported where:

- 1) *There is a clearly identified need that cannot be addressed elsewhere in the District;*
- 2) *The development is located in an area that is sustainable to meet the social as well as housing needs of the intended residents;*
- 3) *It will not lead to a concentration of similar uses that would be detrimental to the character and function of an area and/or residential amenity;*
- 4) *It will not detrimentally impact on the capacity of public services, including health and social care;*
- 5) *It is in close proximity to everyday services, preferably connected by safe and suitable walking / cycling routes or public transport appropriate for the intended occupier;*
- 6) *It can be demonstrated that the development is designed and managed to provide the most appropriate types and levels of support to its target resident;*
- 7) *It can be demonstrated that revenue funding can be secured to maintain the long term viability of the scheme; and*
- 8) *The scheme is supported by the relevant statutory agencies."*

5.3.15.7 These criteria are discussed in turn below, but the identified need has not been met through the limited number of planning permissions which have been granted since the LDP was adopted. Furthermore, no specialist housing for older people has been granted since the determination of Phases 1 and 2 and the more recent LHNA identifies a continuing shortfall in the provision of such specialist housing.

5.3.15.8 The above requirement is also identified in the Burnham-on-Crouch Neighbourhood Plan. In particular, policy HO.3 states that *"Housing for retired and elderly persons and people with mobility and sensory impairment will be supported. They should be provided on the strategic housing sites and elsewhere as appropriate"*. Policy HO.3

will support general housing or bespoke housing for the elderly close to shops and services.

5.3.16 Clearly Identified Need? (criterion 1 of Policy H3)

5.3.16.1 As part of the Needs Appraisal For Older Persons Accommodation submitted for Phase 2, it was stated that there was an under-supply of 1482 homes for elderly persons in the District. Reference was also made to Maldon Council's Specialist Housing SPD which identifies an acute need for specialist housing in the District and that the majority of older people would like to live in a bungalow (62.2%), followed by supported housing. With reference to the SHMA (2014), it was stated that this document '*outlined at the time the need for 374 new sheltered units by 2018 (of these 254 in the affordable sector and 120 in the private sector) as well as 138 extra care units.*'

5.3.16.2 The Council's Older Persons Housing Strategy (2013) sets out four priorities for such accommodation in a 15-year forward looking timeframe. These are:

- 1st Priority: 150 extra care homes (the most significant deficit);
- 2nd Priority: 200 sheltered homes / low levels of support homes;
- 3rd Priority: 200 retirement homes for affordable rent;
- 4th Priority: 300+ open market homes designated for older persons.

5.3.16.3 The development proposed would assist in tackling deficiencies in affordable rent retirement homes (3rd priority) and open market homes (4th priority). Also, because of the specific design of all units as wheelchair accessible or adaptable, care packages can be offered to any dwelling on either phase such that low level support 'sheltered housing' units can be formed without adaptation / limited adaptation at any point in the future. This means that the affordable housing offer, will help to address the District's 2nd priority need for sheltered homes. The fact that the one proposal meets three of the four criteria weighs heavily in favour of the development.

5.3.16.4 In relation to population projections over the forecast period to 2035, key finding of the SMHA (via ONS (Office of National Statistics) predictions) relevant to this application are:

- the total population of the District will rise by 17.5%;
- the most significant growth is in the over 65 age group, with the most significant proportional growth seen in those aged over 90. This group will impact on demand for supported housing, support services and need for adaptations.

5.3.16.5 The applicant drew attention to the age profile in the District in 2018 which indicated a high proportion of residents aged 70-74 years, and a corresponding decrease in those aged 30-34 years. The projected population is expected to increase by 2020, with an ageing population. The proportion of the population aged 65+ is greater in the District at 24.94% compared to England at 18.8%. The LPA acknowledges this when considering the application.

5.3.16.6 According to the Maldon District Specialist Needs Housing SPD, in the period between 2014 and 2018, just 30 private units were developed, significantly less than the 374 required. In addition, since 2010, a residential home in the District has closed, support has been withdrawn from approximately 600 sheltered properties and the District has no independent living schemes in place. Planning permission has been granted for Phases 1 and 2 of the Burnham Waters schemes and 1 extra care unit in Bradwell-on-Sea (18/00796/FUL) (a total of 391 older person C3 units and 190

care beds (Class C2)). However, this is significantly less than the need identified which will not be met through the Strategic allocated sites in the District. Burnham-on-Crouch has been identified as one of the areas in the District where older persons housing should be focused being a main settlement. There are no other sites within the existing urban areas which could accommodate the development proposed and, therefore, the development could only be accommodated on a rural site.

5.3.16.7 Under-occupation has also been identified as an issue so increasing the availability of smaller units for the elderly would free-up some of the family sized housing stock.

5.3.16.8 Based on the above, it is considered that the development complies with criterion 1 of Policy H3 of the LDP.

5.3.16.9 The Local Housing Needs Assessment, May 2021, which was published after the planning application for Phase 2 was determined, confirms the significant need for additional elderly persons housing within the District.

5.3.17 Social and Housing Needs of Residents Met? (criterion 2) and Most Appropriate Types and Levels of Support Provided? (criterion 6)

5.3.17.1 The proposed development would have a beneficial impact on the health of residents in most instances as the high-quality housing design would support the health of its residents, and the site layout and additional premises address climate change and promote social cohesion. The site also has a reasonable level of accessibility.

5.3.17.2 Details of the design and appearance of the accommodation proposed would be the subject of a future application seeking approval of reserved matters. However, based on the site layout and documents submitted as part of the current application, it is anticipated that the properties would be designed in a way that supports the wellbeing of the future residents, provided an adequate quality of life for the occupiers of the proposed residential units and the development would be designed and managed to provide the appropriate type and level of support for the residents.

5.3.18 Impact on Capacity of Public Services? (criterion 4)

5.3.18.1 The impact on secondary health services is likely to be linked to the extent to which existing residents in Maldon District move into the new development. However, the cascading mechanism proposed as part of S106 agreement would prioritise local residents' access to market homes which would reduce the potential for adverse impacts. Furthermore, medical facilities are to be provided as part of Phase 1 and the applicant is willing to make a financial contribution towards the provision of medical services off-site, similar to that agreed for Phases 1 and 2, if the NHS advise this is necessary. In addition, new community / leisure / sports facilities are proposed as part of Phases 1 and 2 and pathways, allotments and public open space within all Phases would facilitate walking, cycling, recreation etc.

5.3.18.2 Based on the above, it is considered that the scheme would not have an adverse impact on public services.

5.3.19 Concentration of Similar Uses? (criterion 3)

5.3.19.1 It is noted that planning permission exists for Phases 1 and 2 of the retirement community along with a planning permission (reference 14/00356/FUL) for a development on one of the allocated sites to the south-east which would include 20 bungalows and a 50-60 bed care home. However, whilst the development would be

for an additional 203 residential units, the proposal would be an extension to Phases 1 and 2 rather than a separate development. Therefore, it is not considered that the development would result in an over-concentration of similar uses to such a degree to justify planning permission being refused. Furthermore, and significantly, it must be noted that Burnham-on-Crouch is one of the three settlements in the District that the Council's SPD directs this type of accommodation to.

5.3.20 Viable in the Long-term? (criterion 7) and Supported by Relevant Statutory Agencies? (criterion 8)

5.3.20.1 The previous application was accompanied by a Financial Viability Assessment which was submitted to demonstrate that the development can be delivered and maintained in perpetuity without recourse to public funding or future capital inputs beyond those self-generated by the approved Phase 1 and the proposed Phase 2 developments in the short, medium and long term. This testing extended to the health care and C2 uses approved in Phase 1 of the development, to which residents in Phases 2 and 3 will have direct access. Such an approach was considered acceptable at the time of the Phases 1 and 2 applications and there is no material change in circumstances that would mean that the Council's approach should change. Furthermore, the proposed S106 clause to ensure development is not commenced until Phases 1 and 2 are significantly occupied will ensure that the development does not come forward without a sound financial position.

5.3.20.2 In the absence of any objections from the relevant statutory agencies (the Specialist – Housing, the NHS and ECC Social Services), it is considered that the requirements of criteria 7 and 8 of Policy H3 are met.

5.3.21 Affordable Housing

5.3.21.1 The site is located in an area identified in the approved LDP where 30% of the units would need to be affordable to comply with the requirements of Policy H1. The proposal includes the provision for at least 30% of the residential units proposed as affordable units on the basis of which, the proposal complies with Policy H1.

5.3.21.2 Whilst the development includes a number of three-bedroom units, which is in accordance with the LHNA, the Strategic Housing Services has raised concerns regarding the ability for these properties to meet the needs of the residents of the District taking in to account the Council's allocation policy, based on need, and the age restrictions imposed on the properties. The Strategic Housing Services has therefore, requested that the number of three-bedroom units are provided in the form of one and two bed units to better meet the needs of the District; this is considered to be an acceptable and reasonable approach.

5.3.21.3 Policy H1 allows for a financial contribution being accepted from applicants in lieu of on-site provision (either in full or part) where this would better satisfy the affordable housing needs of the District. Notwithstanding the above, the Strategic Housing Services have requested that the Council looks to provide a number of units on site and seek for the remainder of the affordable housing provision to be provided through a commuted sum which could be used to provide general needs affordable housing; this is because there is a greater need for this type of affordable housing when compared to old persons accommodation. This was the approach that the Council took to the previous planning application and the Inspector, when allowing the appeal, considered that this was a significant benefit and weighed in favour of the development. This is therefore, considered to be an approach that the Council should look to repeat this approach in this instance.

5.3.21.4 The Affordable Scheme detailing tenure, cost, allocation of units would be agreed by the LPA, in consultation with the Senior Specialist – Housing, as part of compliance with the S106 Agreement which would need to be completed prior to any planning permission being granted.

5.3.22 Housing Mix

5.3.22.1 The Council encourages, in policy H2, the provision of a greater proportion of smaller units to meet the identified needs and demands. The Council's SHMA, published in June 2014, identified the same need requirements for 60% of new housing to be for one- or two-bedroom units and 40% for three-bedroom plus units. However, the more recent LHNA (May 2021) identifies different greatest needs.

5.3.22.2 The proposal for 203no. residential units consisting of a mixture of one, two and three-bedroom units, would contribute positively to the currently identified housing need and be responsive to local circumstances which would weigh in favour of the proposal.

Market Housing

Dwelling size	LHNA requirement	Proposed
1 bedroom	Up to 10%	34 (24.1%)
2 bedrooms	25-35%	70 (49.6%)
3 bedrooms	40-50%	38 (27.0%)
4+ bedrooms	15-25%	0

Affordable Ownership (23%)

Dwelling size	LHNA requirement	Proposed
1 bedroom	15-25%	5 (35.7%)
2 bedrooms	35-45%	9 (64.3%)
3 bedrooms	25-35%	0
4+ bedrooms	5-15%	0

Affordable Rented (77%)

Dwelling size	LHNA requirement	Proposed
1 bedroom	30-40%	23 (48.9%)
2 bedrooms	30-40%	24 (51.1%)
3 bedrooms	20-30%	0
4+ bedrooms	Up to 10%	0

5.3.22.3 However, due to the specialist nature of the residential units proposed, compliance with the housing mix for general housing would not be expected or appropriate. It is also important to note the conclusions of the Inspector who determined the previous appeal in relation to housing need i.e. *'the need for housing is... critical, acute and deteriorating. Providing more housing is one of, if not the most, important aspirations of local and national planning policy. I therefore place very substantial positive weight on the proposed housing'*. In addition, *'the Council have identified a substantial shortfall of market older persons accommodation, at 355 dwellings. The need for elderly persons accommodation is therefore urgent and crucial and I place very substantial positive weight on the proposed dwellings'*. The Inspector also placed *'moderate positive weight on the fact that the proposed dwellings are M4(3) – wheelchair user dwelling - complaint'* and *'substantial positive weight'* to the encouragement of downsizing from family housing in the District. It is therefore considered that the proposed affordable housing will weigh heavily in favour of the development.

5.3.22.4 The proposed new green infrastructure and open spaces would also make a positive contribution towards the social dimension of sustainable development and comply with Policy E3 of the LDP.

5.3.23 Economic Dimension

5.3.23.1 With reference to the economic dimension of sustainable development, the development would result in economic benefits through the employment and business created by the construction of the development proposed. Training opportunities and priority would be given to local people for job vacancies which could be secured through a S106 Agreement. These economic benefits would comply with Policies E1 and E6 of the LDP and would weigh in favour of the proposal.

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 This principle has been reflected to the approved LDP. The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:

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

5.4.4 Policy H4, with respect to density, states that all development will be design-led and will seek to optimise the use of land having regard to a list of considerations including the location and setting of the site (1), the existing character and density of the

surrounding area (2) and the impacts upon the amenities of neighbouring properties (7).

- 5.4.5 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG.
- 5.4.6 The housing design principles for Burnham-on-Crouch are also identified in Appendix 2 of the BOCNP.
- 5.4.7 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.4.8 A Landscape and Visual Impact Assessment (LVIA), Landscape Strategy (July 2022) – Landscape Masterplan drawing, Landscape Strategy drawing and Tree Survey and Arboricultural Impact Assessment have been submitted.
- 5.4.9 With reference to the Essex Landscape Character Assessment (2006), the site falls within area E2 (Tillingham and Latchingdon Coastal Farmland) the key landscape characteristics of which are:
- Gently undulating arable farmland behind the coastal marshland, locally quite steep.
 - Heavy clay soils and lighter sandy loamy soils where sand and gravel deposits overlie clay.
 - Distinctive long hedgerow boundaries running on parallel axes are a common feature, thought to be the result of ancient planned enclosure.
 - Dutch elm disease has made elm loss noticeable in hedgerows.
 - Right-angled bends in lanes reflect ancient field pattern.
 - Settlement pattern follows underlying soils - sand and gravel formations on a ridge between Bradwell and Burnham-on-Crouch - elsewhere settlement on slopes in clay areas.
 - This is a landscape characterised by its rolling topography, by its visual links to the drained marshland and by its texture of its deciduous tree and shrubs in field boundaries.
 - Urban expansion is happening fast here, and as a consequence only certain pockets, well away from the B road network, have a moderate sense of tranquillity now.
- 5.4.10 This landscape is described as having a moderate sensitivity to change and identifies relevant key sensitivities within the study area to be:
- Distinctive long hedgerow boundaries (often containing deciduous trees and shrubs) running on parallel axes (which are sensitive to changes in land management).
 - The open nature of the skyline of several areas of the coastal farmland is visually sensitive, with new development potentially visible within expansive views across the area and also within views to and from adjacent drained estuarine marsh and coastal farmland.

- There is a strong sense of historic integrity, resulting from a historic settlement pattern of villages lining the top of the low north-south ridge between Bradwell and Burnham-on-Crouch and a distinctive historic co-axial field pattern.

5.4.11 The application is in outline form with matters of landscaping, scale and appearance being reserved for future determination. However, matters relating to site layout and access are to be assessed as part of the current application.

5.4.12 In terms of the density of the residential development this would be lower than Phases 1 and 2 which will be 12dph. Whilst low, the proposed density is considered to be appropriate for this rural site that would abut the countryside and given the nature of the residential accommodation proposed.

5.4.13 The development would extend over a significant area and would, inevitably, alter the rural character and appearance of the area. However, it must be noted that any development of a scale such as this within the District would have an impact and unfortunately, Government guidance is clear that the Council has a responsibility to meet the housing needs of the District and therefore, developments of a significant scale are required to come forward. The simple fact that a development materially alters the appearance of a site does not automatically demonstrate harm and there is a requirement to consider the benefits of the application against the harm of the development.

5.4.14 There would be views of the development from its surroundings including from the public rights of way within and in the vicinity of the site as well as from existing residential properties. However, this would be limited as the development would be viewed as an extension to Phases 1 and 2, which it would adjoin on two sides, resulting in a compact form which greatly reduces the apparent harm of the development. It would be likely that this development on a new, separate site would be significantly more visually intrusive than what is proposed as part of this application. A separate development would also not benefit from the services and facilities that would be provided on Phases 1 and 2 and would, potentially, need to be greater in scale if such services and facilities were also to be provided on-site. Furthermore, the development would be spacious in nature consisting, predominately, by single storey buildings and the two storey apartment blocks would be located away from the site's countryside boundaries. In addition, substantial additional landscaping would enhance the existing vegetation and help to assimilate the development into its setting, particularly in the medium-longer term. Details of external materials, soft and hard landscaping as well as external lighting could be required by condition if planning permission were to be granted.

5.4.15 Therefore, whilst it is noted that the proposed development would significantly alter the nature of the application site it is considered that due to the relationship with Phases 1 and 2 and the low density of the development the impact on the character of the area, when viewed from public vistas, would be, for a development of this size and scale, minimal. Taking into account the Council's lack of a 5YHLS, and the need to deliver additional housing outside the sites allocated within the LDP, it is considered that the proposal would, in relation to design and impact on the character of the area, be acceptable and the overall harm would not be of a demonstrable level.

5.4.16 As part of the appeal decision relating to Phase 2, the Inspector made a number of comments which are equally applicable to the development the subject of the current application:

- Paragraph 8: 'It is an unremarkable, but pleasant, area of typical arable countryside, typical of the landscape character area E2 Tillingham and Latchingdon Coastal Farmland'.
- Paragraph 9: ...'the appeal site would have a strong edge of settlement character, being bound on two sides by existing development or an existing road'.
- Paragraph 12: even though the 'proposal would demonstrably and irrevocably alter the landscape from agricultural open countryside, albeit in a settlement edge location, to an urban development'....'The greatest effect would be to users of the footpaths that run through, and to the north east of, the site and are currently along open fields. However, even to those receptors, the presence of Phase 1 and the screening landscaping would reduce the visual harm'.
- Paragraph 13: 'the proposal has minimised the effects as much as could reasonably be expected'.
- Paragraph 14: 'the visual and landscape effects of the proposal would be localised to the appeal site and nearby surroundings...' and 'Phase 1 has already established the principle of a large scale development in this part of Burnham-on-Crouch, and for development away from the Maldon Road frontage and into the adjacent countryside'.
- Paragraph 15: 'the landscape and visual harm from the proposal would be minor, and at the bottom end of the scale of harm'.

5.4.17 The Inspector concluded that the development would cause 'minor and limited harm to the character and appearance of the area which would be the 'bare minimum that could be expected from the development of a field for housing'. It is considered that the same conclusions apply to the development currently proposed. The development the subject of the current application is for a smaller number of dwellings, the majority of which would be single storey buildings, at a lower density and which would be no closer to existing dwellings than the scheme the subject of the previous appeal. The development currently proposed, due to its lower density and landscaped buffer around its outer edge, would provide a visual transition between the built elements of the retirement village and the surrounding countryside. Therefore, it may actually soften the wider views of the retirement community in the whole. Overall, it is considered that there are no defensible reasons for different conclusions to those of the Inspector to be reached in relation to the current scheme.

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 The proposed development would be substantial in terms of its extent and would adjoin the rear boundaries of a number of residential properties which front Green Lane to the south. However, the application site boundary is located a significant distance from the rear elevations of these residential properties at its closest point and the buildings proposed would be even further away from the nearest existing residential property. Furthermore, all of the buildings closest to the site boundary would be single storey in height. The site access proposed direct from Green Lane

would be for pedestrians and cyclists only (except in an emergency) and, therefore, the use of this access would not cause harm to the amenity of existing residents by reason of noise or disturbance. Details of external lighting for this access and the development as a whole could also be required by condition.

- 5.5.3 Based on the above assessment, whilst the proposed development would be visible from a number of existing residential properties, it is considered that, subject to the imposition of conditions, the development would not have a materially adverse impact on the amenity of existing local residents or, due to the separation distances which would be provided, residents of the adjacent Phases 1 and 2 by reason of overlooking, dominance, loss of sunlight, loss of daylight, loss of outlook, visual impact and noise. As a result of the nature of the uses proposed, it is not anticipated that smell would be a concern. The issue of the impact of the development on air quality, is addressed below.
- 5.5.4 As part of the previous appeal, the Inspector concluded that the development would have no adverse impact on existing residents due to the degree of separation between buildings and the size and length of existing gardens. The Inspector concluded that (paragraph 18) 'There would be some, but limited, glimpsed views of some of the proposed buildings' from the rear gardens which back onto the appeal site but 'there is no 'right to a view'. The development proposed would be no closer to existing residential properties and, therefore, only the same conclusion can be reached.

5.6 Access, Parking and Highway Safety

- 5.6.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposal, inter alia, to 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 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which encourages the reduction in the reliance on the car and promotes methods of sustainable transport.
- 5.6.3 Parking Provision
- 5.6.3.1 In terms of parking provision for vehicles and bicycles, the standards as set out in the adopted Vehicle Parking Standards SPD for Maldon District Council relevant to the proposal are as follows:

Dwellinghouses (Class C3):

Minimum 1 parking space per dwelling; 1 space / 1 bed; 2 space / 2-3 bed; 3 space / 4+ bed; visitor parking - 1 per 4 dwellings; 1 per 2 dwellings where car parking is allocated

Off street parking: at least 1 home charging point per dwelling

Cycle parking: none if garages provided; otherwise, 1 / dwelling (one bed); 2 / dwelling (2+ beds); + 1 / 8 units (for visitors)

Independent living/retirement complexes/residential care home: a maximum of one 10-scooter store per development with one charging point per scooter space.

Individual dwellings designed for older people: secure, adaptable space with a suitable, conveniently located charging point (e.g. additional internal space within the home or within a garage) for a scooter.

5.6.3.2 To comply with the adopted parking standards, the bungalows proposed would need to be provided with a total of a minimum of 240no. parking spaces plus 60 visitor parking spaces and 240no. cycle parking spaces plus 30 cycle parking spaces for visitors. For the individual dwellings, a secure, adaptable space with a suitable, conveniently located charging point for a scooter would be required for each dwelling.

5.6.3.3 The apartments proposed would, to comply with the adopted standards, need to be provided with a minimum of 104no. parking spaces plus 26no. visitor parking spaces (a total of 130 spaces) and 104no. cycle parking spaces plus 13no. cycle parking spaces for visitors. The provision of a 10-scooter store with one charging point per scooter space would also be required.

5.6.3.4 The application has been accompanied by a Transport Assessment.

5.6.3.5 Whilst not included on the proposed site plan submitted, it is stated that all of the dwellings proposed would be provided with two off-street parking spaces. Home charging points could be required by condition if planning permission is required. Due to the spacious layout, there would be sufficient space to provide adequate parking for visitors and cycle parking for the dwellings proposed.

5.6.3.6 Car parking areas would be provided for the apartments, one for each of the three blocks proposed.

5.6.3.7 Based on the number of parking spaces proposed, no concerns are raised in relation to the provision of car parking. No specific provision is included for car parking spaces for the bungalows proposed, scooter storage, parking for Powered Two Wheelers (PTWs) and cycle parking. However, it would be expected that these details could be required, by condition, to form part of a subsequent application for approval of reserved matters, if planning permission were to be granted.

5.6.4 Highway Safety and Access

5.6.4.1 ECC Highways has not commented on the current proposal but did not raise concerns in response to Phases 1 or 2, subject to requirements (including a right turn ghost lane in Maldon Road at the site access) secured either through the S106 Agreement or conditions. There is no reason to expect that a different response would be received in relation to the Phase 3 now proposed. In addition, following a detailed assessment, it was concluded above that the site has a reasonable level of accessibility and the occupiers of the site would not be overly reliant on the use of private cars.

5.6.4.2 The applicant is also offering a financial contribution of £25,000 for improvements to the existing junction of B1010 (Maldon Road) and B1021 (Church Road), if considered necessary. At this time comments regarding this matter are awaited from ECC Highways.

5.6.4.3 Waste collection would be undertaken by the private maintenance teams using electric buggies who would transfer waste to a central area for collection by the Council's contractor. A Travel Plan is also to be provided.

5.6.4.4 Based on the above, as the vehicular access from Maldon Road B1010 to the development proposed would be the same as that approved as part of Phases 1 and

2 and the internal roadways would be 20mph and privately maintained, it is not anticipated that the development would cause harm in relation to highway safety and the proposed means of access to the site would be acceptable, subject to the imposition of any conditions or planning obligations which may be recommended by ECC Highways.

5.7 Quality of Life for the Occupiers of the Proposed Residential Units

- 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 Maldon Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.7.2 This would equate to the provision of at least 50sq.m. for the one and two-bedroom bungalows, 100sq.m. for the three-bedroom bungalows and a communal area totalling 1,500sq.m. for the occupiers of the 60 apartments proposed. The requirement for individual private amenity spaces of the recommended minimum sizes for each of the bungalows proposed was relaxed as part of Phases 1 and 2 as communal areas for each cul-de-sac community were proposed to help foster social integration between residents. It is proposed that amenity space for the occupiers of the bungalows proposed as part of Phase 3 is in a similar form. There is not considered to be any planning reason as to why the Council should take an inconsistent approach to this matter. Details of the residential units and the amenity space provision would form part of any subsequent application seeking approval of reserved matters but based on the site layout and documents submitted as part of the current application, it is anticipated that an adequate quality of life for the occupiers of the proposed residential units could be provided.

5.8 Flood Risk and Drainage

- 5.8.1 The application site is located within Flood Zone 1 (low probability). However, due to the site area being more than 1ha, a Flood Risk Assessment (FRA) has been submitted as part of the application. An Essex County Council SuDS Checklist has also been submitted.
- 5.8.2 Policy D5 of the LDP states that the Council's approach is to direct strategic growth towards lower flood risk areas, such as Flood Zone 1, as identified by the Environment Agency. Where development is not located in Flood Zone 1 and in order to minimise the risk of flooding, it should be demonstrated that the Sequential and Exception Tests, where necessary, have been satisfactorily undertaken in accordance with national planning policy. The Policy also requires that all development must not increase flood risk (including fluvial, surface and coastal) on site and elsewhere.
- 5.8.3 A FRA and Catchment Assessment have been submitted. The FRA only identifies potential surface water drainage issues.
- 5.8.4 As a result, it will be important to ensure that surface water within the site is dealt with appropriately to ensure that there is no unacceptable risk of flooding from surface water.
- 5.8.5 The FRA advises that run-off rates would be equivalent to greenfield run-off rates and that run-off would be collected from permeable hard surfaces and attenuated

and stored through the proposed swales and basins. Two of the attenuation basins would remain wet all year around, but the other two would be dry for periods of time.

- 5.8.6 Consultation responses from ECC SuDS Team and the Environment Agency are awaited but, in the absence of any objections having been received, based on the documents submitted as part of the application, no objections to the proposal are raised in relation to flood risk or drainage, subject to the imposition of conditions and a review at the reserved matters application stage. It is considered that, as part of the application, it has been demonstrated that the site is not at risk of flooding, the development would not increase the risk of flooding elsewhere and foul drainage can be accommodated satisfactorily.

5.9 Nature Conservation

- 5.9.1 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.
- 5.9.2 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).
- 5.9.3 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.
- 5.9.4 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.
- 5.9.5 The development has the potential to impact on both on-site and off-site nature conservation interests.
- 5.9.6 In relation to on-site impacts, a Preliminary Ecology Report has been submitted as part of the application. The Report concludes that the only harm, associated with the loss of habitat for farmland birds, would be permanent but local.
- 5.9.7 It is considered that, subject to the imposition of a condition requiring the mitigation recommended, the development would not have an adverse impact on the site's ecological interests.
- 5.9.8 With respect to off-site impacts, Natural England have advised that this development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council (MDC), working together to mitigate the effects arising from new residential development.

Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. Natural England advise that MDC must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.

- 5.9.9 Natural England 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 Special Protection Area (SPA) and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'Zones of Influence' of these sites cover the whole of the Maldon District.
- 5.9.10 Natural England anticipate that, in the context of the LPA's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these Zol constitute a likely significant effect on the sensitive interest features of these designated site through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), Houses in Multiply 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.
- 5.9.11 Prior to the RAMS being adopted, Natural England advise that these recreational impacts should be considered through a project-level HRA – Natural England has provided a HRA record template for use where recreational disturbance is the only HRA issue.
- 5.9.12 A HRA Report has been submitted by the applicant which concludes that the development, without mitigation, is likely to have a significant effect (either alone or in combination with other plans or projects) on the integrity of the International Sites (in this case, Crouch and Roach Estuaries SPA (UK9009244) and Ramsar (UK11058); Essex Estuaries SAC (UK0013960); and Blackwater Estuary SPA (UK9009245) and Ramsar (UK11007). Therefore, an Appropriate Assessment is required.
- 5.9.13 The applicant has submitted an Appropriate Assessment which concludes that no standalone or in-combination adverse effects are considered likely as a result of the development proposed.
- 5.9.14 As the proposal is for more than 100 houses (or equivalent), Natural England does provide bespoke advice. Natural England had not commented on the proposal at the time of writing this report. However, Natural England'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 £137.71 per dwelling.
- 5.9.15 To accord with Natural England's requirements, an Essex Coast RAMS HRA Record will need to be completed if planning permission is to be granted to assess if the development would constitute a 'Likely Significant Effect' to a European site in terms of increased recreational disturbance. This Assessment would need to conclude

that, with mitigation, the development would not have a Likely Significant Effect on the European designated sites before planning permission was granted.

5.9.16 The applicant has agreed to enter into a S106 Agreement to secure the financial contribution towards RAMS required.

5.9.17 On the basis of the above, it is considered that the development would not have a materially adverse impact on nature conservation interests (either on- or off-site) subject to the imposition of conditions and the satisfactory completion of an Appropriate Assessment to include a financial contribution towards RAMS being secured.

5.10 Other Material Considerations

5.10.1 Archaeology: ECC Archaeology has advised that the site is within an area of archaeological potential. Therefore, if planning permission were to be granted it would be necessary to impose conditions as recommended by ECC Archaeology (Policy D3).

5.10.2 The Specialist – Environmental Health has provided advice in relation to contaminated land. A Geo Environmental Assessment has been submitted. The Specialist advises that this matter could be adequately dealt with through the imposition of conditions if planning permission were to be granted (Policy D2).

5.10.3 In terms of the impact of the development on air quality, an Air Quality Assessment has been submitted as part of the application. The Specialist – Environmental Health has not raised concerns in relation to the impact of the development on air quality. Based on the above, the site is considered suitable for the proposed use with regard to air quality.

5.10.4 Loss of agricultural land: the development would result in the loss of the site for agricultural use. It is understood that the land is classified as Grade 3 – good to moderate and, therefore, the development would not result in the loss of the best or most versatile agricultural land (Policy D2). Furthermore, the amount of land to be lost, in the context of the District as a whole, would not be significant. As part of the appeal decision relating to Phase 2 (paragraph 22) the Inspector stated that ‘the land is classified as Grade 3 – good to moderate – and, therefore, the development would not result in the loss of the best or most versatile agricultural land’.

5.10.5 Reference is made in the Design and Access Statement submitted to the potential for use of renewable energy technologies within the development. No details have been provided but these could be required by condition if planning permission were to be granted.

5.11 Planning Balance

5.11.1 It is important to recognise the balance between the LDP 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 economic, social and environmental objectives 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, against the harm which would arise from the proposed development.

5.11.5 The main benefits of the proposal are considered to be as follows:

- Social benefits from providing 141 market homes in a variety of sizes and types specifically designed for elderly persons;
- Social benefits of providing affordable homes in a variety of sizes and types specifically designed for elderly persons;
- Social and economic benefits by encouraging release of existing family housing in the District;
- Economic benefits flowing from the construction phase of the development, where the opportunity exists for sourcing local labour and materials;
- Social and economic benefits of additional custom for services and facilities in Burnham-on-Crouch;
- Economic benefits through creating training and re-skilling opportunities in the District;
- Environmental benefits of the development as a result of the enhancement and provision of landscape and ecological features.

5.11.6 Overall and giving significant weight to the conclusions reached by the Inspector who determined the previous appeal relating to Phase 2, it is considered that these benefits significantly and demonstrably the limited harm the development would cause to the character and appearance of the area. Whilst there would be some harm, the development complies with the development plan as a whole.

5.11.7 The Inspector, as part of the appeal decision relating to Phase 2, carried out a detailed assessment and balancing exercise in relation to the benefits of that development and the harm it would have caused. Whilst it is acknowledged that there are now marginally more years (3.66) of deliverable housing land supply than there was at the time of the appeal decision (2.92), this is still significantly below the minimum of 5 years supply required. Therefore, the conclusions of the Inspector's assessment are considered to be equally applicable to the development currently proposed:

- Paragraph 50: 'I therefore place very substantial positive weight on the proposed housing' due to the scale of need given the 5YHLS.
- Paragraph 51 'the appeal site does not represent an inappropriate location for development, in principle. This factor weighs neutrally in the planning balance.'
- Paragraphs 52-54: the proposed is 'for 'specialist elderly housing'; the importance of such accommodation is highlighted in the LHNA, the LDP and the Neighbourhood Plan; 'a substantial shortfall of market older persons

accommodation, at 355 dwellings' was identified. 'The need for elderly persons accommodation is therefore urgent and critical and I place very substantial positive weight on the proposed dwellings' along with 'moderate positive weight on the fact the proposed dwellings are M4(3) [Wheelchair User Standard] compliant'.

- Paragraph 55: 'substantial positive weight' was placed on the development allowing older households to move out and so free-up family housing stock for younger buyers.
- Paragraph 56: there is a 'very substantial shortfall' within the District of affordable homes (817) and the need is 'acute and worsening'. 'I therefore place very substantial positive weight on the proposed on-site affordable units ... [and] the proposed contribution of circa £4.2m towards off-site affordable housing provision'.
- Paragraph 57: 'significant positive weight' was placed on the benefits for the health and wellbeing of the elderly residents who would occupy the site, in comparison to them living in their own homes.
- Paragraph 58: 'There would be economic benefits in the short term and in the longer term'. 'I place significant positive weigh on this'.
- Paragraph 59: there would be 'benefits to the wider community from improved services. I place moderate positive weight on this.'
- Paragraph 60: 'There would be environmental benefits as a result of the enhancement and provision of landscape and ecological features, specifically a considerable amount of new hedgerow planting, trees, ponds and wildflower areas. There would also be a biodiversity net gain. I place significant positive weight on this.'
- Paragraph 65: 'Overall, the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Quite the reverse, in fact. The appeal should therefore be allowed'.

5.11.8 The only harm the Inspector identified was to the character and appearance of the area. The Inspector did not identify any other harm including any harm to the living conditions of any existing, neighbouring residents. The development the subject of the current application is for a smaller number of dwellings, at a lower density and which would be no closer to existing dwellings than the scheme the subject of the previous appeal. It is noted that a full award of costs in favour of the Appellant was made in relation to Local Planning Authority's case which was based on the perceived harm the development would have caused to the character and appearance of the area and the amenity of existing residents. The development the subject of the previous appeal was found to be acceptable (subject to relevant details being approved at reserved matters stage, the imposition of conditions and/or relevant obligations being secured through the Section 106 Agreement) in relation to all of the following issues: accessibility, impact on existing infrastructure, services and facilities, flood risk and drainage, impact on nature conservation (on and offsite) and air quality. The current proposal is an extension to the first two phases of development. As part of the previous appeal decision, the Inspector stated that the development 'would be of very similar, almost identical, character to the Phase 1 development to the south west' (paragraph 10). This view is considered to be equally applicable to the third phase of development the subject of the current application.

5.11.9 Therefore, it is considered that the development proposed would be sustainable, and, as a result, be acceptable. It is recommended below that planning permission is granted subject to the imposition of conditions and all interested parties first entering into a S106 Agreement to secure the necessary obligations, as set out.

6. ANY RELEVANT SITE HISTORY

- **18/00443/OUT** – Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole and create associated hard and soft landscaping. Approved 13.09.2019 (subject to a Section 106 Agreement).
- **19/01203/ADV** - Erect non-Illuminated advertisement hoarding not exceeding 23 metres in length. Approved 13.01.2020.
- **19/05192/DET** - Compliance with conditions notification OUT/MAL/18/00443 (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 21 - Written scheme of investigation of archaeology - Conditions cleared 23.01.2020.
- **20/00387/RES** - Reserved matters application for the approval of appearance, landscaping and scale on approved planning application OUT/MAL/18/00443 (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) – Refused 10.06.2020.
- **20/05094/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey

building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping. Condition 14 - Construction Method Statement. Condition 25 - Ecological enhancements. Condition 26 - Ecological mitigation scheme. Condition 27 - Non-licensed method statements for Amphibians and Reptiles. Approved 15.10.2020.

- **20/05101/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 8 - Risk assessment. Approved 19.10.2020.
- **20/05103/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole and create associated hard and soft landscaping) Condition 20 - Arboricultural method statement. Approved 19.11.2020.
- **20/00846/RES** - Reserved matters application for the approval of appearance, scale & landscaping on approved planning application 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping). Approved 14.10.2020.
- **21/05003/DET** – Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-

bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 24 - Broadband strategy. Approved 03.03.2021.

- **21/05037/DET** - Compliance with conditions notification 20/00846/RES (Reserved matters application for the approval of appearance, scale & landscaping on approved planning application 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping)) Condition 7 - Detailed phasing plan. Condition 8 - Samples of external finishing materials. Pending consideration.
- **21/05060/DET** - Compliance with conditions notification 20/00846/RES (Reserved matters application for the approval of appearance, scale & landscaping on approved planning application 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping)) Condition 20 - Root deflectors. Condition 21 - Solar panels. Pending consideration.
- **21/05064/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and

surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 12 - Surface water drainage. Condition 13 - Foul drainage.. Pending consideration.

- **21/00075/OUTM** - Outline application with all matters of detail reserved for future determination (except for layout and means of access to the site) to extend approved retirement community to north and east including affordable housing: erect 132No. one, two and three-bedroom bungalows, 100No. one, two, and three-bedroom apartments in two-storey buildings, and erect single-storey ancillary multi-use community building. Lay out estate roads, footpaths, vehicle parking and surface water drainage infrastructure including swales and detention basins. Form open spaces and allotments and lay out hard and soft landscaping. Allowed on appeal. Full costs awarded against the Local Planning Authority.
- **21/05077/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 22 - External lighting strategy. Approved 06.07.2021.
- **21/05102/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 14 - Construction method statement. Approved 12.08.2021.
- **22/00628/FUL** - Erect Show Home and Sales and Marketing Suite, Form Car Park, and Lay Out Associated Hard and Soft Landscaping in Connection with Adjacent Burnham Waters Retirement Community Development OUT/MAL/18/00443 and RES/MAL/20/00846 for a Temporary Period of one year. Undetermined.
- **22/00703/VARM** - Variation of condition 7 (phasing plan) on reserved matters approval 20/00846/RES (Reserved matters application for the approval of appearance, scale & landscaping on approved planning application 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment

building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping)). Approved 15.09.2022.

- **22/05020/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping). Condition 3 - Landscaping (Hedge Retention). Undetermined.
- **22/05040/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 21 - Archaeological assessment. Undetermined.
- **22/05050/DET** - Compliance with conditions notification 20/00846/RES (Reserved matters application for the approval of appearance, scale & landscaping on approved planning application 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 8 - Samples of materials. Undetermined.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Burnham Town Council	No response	Noted

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
ECC Highways	No response	
Environment Agency	No response	
Natural England	planning permission should not be granted until a Habitats Regulation Assessment has been carried-out and the conclusions confirmed.	Noted – refer to section 5.9 of report.
ECC SuDS Team	No response.	
Anglian Water Services	<p>No assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.</p> <p>WASTEWATER SERVICES Section 2 - Wastewater Treatment The foul drainage from this development is in the catchment of Burnham On Crouch Thames Water Recycling Centre that will have available capacity for these flows.</p> <p>Section 3 - Used Water Network This response has been based on the following submitted documents: Site Specific FRA August 2022 Development will lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. (a full assessment cannot be made due to lack of information, the applicant has not identified a pumped discharge rate) We therefore request a condition requiring phasing plan and/or on-site drainage strategy.</p> <p>Section 4 - Surface Water Disposal The preferred method of surface water disposal would be to a Sustainable Drainage System (SuDS) with connection to sewer seen as the</p>	Noted – refer to relevant sections of report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.</p> <p>From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments in the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be reconsulted to ensure that an effective surface water drainage strategy is prepared and implemented.</p>	
Essex and Suffolk Water	No response.	Noted.
ECC Archaeology	<p>The Essex Historic Environment Record (EHER) shows that the proposed development site is located on the northern edge of Burnham-on-Crouch. Excavation in advance of the first phase of development on this site has established the presence of multi-period archaeological remains. With regard to the current application (MAL/22/00887) there is high potential for further multi-period archaeological remains to be present within the proposed development area. Archaeological deposits are both fragile and irreplaceable and any permitted development on site should therefore be preceded by a programme of archaeological investigation which should be secured by an appropriate condition attached to any forthcoming planning consent. This is in line with advice given in the National Planning Policy Framework.</p>	Noted – archaeological conditions are recommended below.
ECC Ecology	No response.	
ECC Social Services	No response.	

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
NHS Property Services	No response.	
ECC Education	No response.	
Essex Police Designing Out Crime	Made general comments in relation to access to open space and nature, crime reduction and community safety and housing design. Prior to the Reserved Matters Application, the Designing out Crime Team would welcome consultation as part of the planning process.	Noted.
Cadent Gas	Holding objection while engineering team reviews the available information.	Noted.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Strategic Housing Services	<p>The Outline Application is proposing the development with all matters of detail reserved for future determination (except for layout and means of access to the site) to extend approved retirement community to north and east including additional affordable housing: Erect 203 Dwellings Comprising 143No. one, two and three-bedroom bungalows, 60No. one, two, and three-bedroom apartments in two-storey buildings. Lay out estate roads, footpaths, vehicle parking and surface water drainage infrastructure including swales and detention basins. Form public open spaces including Greenway, Orchards and Allotments and lay out hard and soft landscaping which triggers 30% affordable housing requirement under Policy H1 of the Approved Local Development Plan 2014-2029 which equates to 61 Affordable units.</p> <p>The Local Housing Needs Assessment 2021 identifies a tenure mix of 75% Rented and 25% Intermediate Affordable Housing. The breakdown of sizes of Market and Affordable units is as follows –</p> <p>"Market 1 bed - Up to 10% 2 bed - 25-35% 3 bed - 40-50% 4 bed+ - 15-25% Affordable Ownership 1 bed - 15-25% 2 bed - 35-45% 3 bed - 25-35%</p>	Noted

Name of Internal Consultee	Comment	Officer Response
	<p>4 bed+ - 5-15% Affordable Rented 1 bed - 30-40% 2 bed - 30-40% 3 bed - 20-30% 4 bed+ - Up to 10%"</p> <p>Also stipulated = "The Council should consider requiring all dwellings in all tenures to meet the M4(2) standards as a starting point - which are similar to the Lifetime Homes Standards - and at least 10% of homes meeting Part M4(3) – wheelchair user dwellings (with a higher percentage for affordable housing)." and with regards to sizes of units .</p> <p>The Affordable units would need to be developed to Nationally Designed Space Standards.</p> <p>The gross costs of the affordable units (rent/service charge) have to be within Maldon District Council's Strategic Tenancy Strategy/Local Housing Allowance level and delivered by a Registered Provider/ Housing Association who are recognised and regulated by Homes England and eligible for funding from Homes England.</p> <p>The Affordable Scheme detailing tenure, cost, allocation of units is to be agreed by Maldon District Council's Housing Department as part of the Section 106 Agreement</p> <p>The Applicant has indicated their agreement to provide the Affordable Housing requirement on site therefore Strategic Services supports this Application. However, there is not considered to be an identified need for 3 bed affordable units for older people. With this in mind it is considered that this quantum of affordable housing provision should be provided in the form of 1 and 2 bed units.</p> <p>Strategic Housing Services would require the following units to meet the need -</p> <ul style="list-style-type: none"> • 30 Affordable rented 1 bed units • 3 Intermediate 1 bed units • 16 Affordable rented 2 bed units • 12 Intermediate 1 bed units. 	

Name of Internal Consultee	Comment	Officer Response
	<p>However, Policy H1 of the Approved Local Development Plan 2014 - 2029 does allow for the council to consider accepting a financial contribution from the developer that can better satisfy the Affordable Housing Needs of the district. The Housing Service is very conscious of the under provision of General Needs Affordable Housing through the Local Development Plan. Whilst there is a recognised need for age restricted housing there is a greater need in the district for General Needs Affordable Housing. Therefore, whilst the Housing Service would support a small number of bungalows on this site/this Application, it would be encouraged that the Local Planning Authority enters into discussion with the Applicant for a Commuted Sum for a substantial number of properties to provide a better Affordable Housing offer for the district residents as a whole. This approach was undertaken at the time of the second phase Application and it must be noted that when allowing the Appeal the Inspector highlighted the benefits of this approach.</p> <p>Strategic Housing Services would respectfully request the following provision -</p> <ul style="list-style-type: none"> • 16 Affordable Rented 1 bed bungalows • 5 Affordable Rented 2 bed bungalows • A Commuted Sum for the equivalent affordable housing provision. <p>Strategic Housing Services fully supports this Application that has the opportunity of meeting the Affordable Housing requirements for older people and can assist in meeting general needs affordable housing for residents of the district.</p>	
Specialist – Environmental Health	<p>The phase 1 geo-environmental desk study submitted with the application recommends intrusive ground investigation to evaluate ground conditions, including the risk of ground gas. A condition to that effect as well as a subsequent remediation condition are recommended below.</p> <p>The air quality assessment concludes that there will be no adverse impacts from changes in air quality but does recommend a dust management plan for the construction phase. This can be incorporated into a wider Construction Environmental Management Plan</p>	Noted – the conditions are recommended below.

Name of Internal Consultee	Comment	Officer Response
	by condition.	
Tree Consultant	No response.	
Strategy Team	No response.	

7.4 Representations received from Interested Parties

7.4.1 **110** letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Outside development boundary; at odds with LDP and neighbourhood plan	Refer to section 5.3 of report.
Not in keeping with rural area and unsuitable location for the elderly as far from hospitals	Refer to section 5.3 of report.
Elderly do not need 3 bedrooms.	Noted.
Traffic and transport issues	Refer to section 5.6 of report.
Phases 1 and 2 enough	Noted.
Loss of valuable agricultural land	Refer to section 5.10 of report.
Would set precedent	Noted.
Negative impact on visual amenity	Refer to section 5.4 of report.
Insufficient infrastructure	Noted – refer to sections 4.5, 5.3, 5.6 and 5.8 of report.
Layout and density inappropriate; overdevelopment	Refer to section 5.4 of report.
Would not meet local housing needs	Refer to section 5.3 of report.
Destruction of habitat	Refer to section 5.9 of report.
Poor accessibility to services and facilities	Refer to section 5.3 of report.
Phase 1 not started – yet to prove quality and viability	Noted.
Urbanisation of countryside	Refer to section 5.4 of report.
Increased pollution	Noted.
Concerns about drainage, flooding and sewer capacity.	Refer to section 5.8 of report.
Should be developing brownfield not greenfield sites.	Noted.
Coalescence risk with neighbouring villages.	Noted.
Changes to footpath and bridleway – footpaths not shown in correct location	Refer to section 5.6 of report.
Harm to amenity of residents on Maldon Road and Green Lane and those to the	Refer to section 5.5 of report.

Objection Comment	Officer Response
north due to change to outlook and vista	
An Easement by Prescription exists along the southern edge of the site through use for over 20 years.	This is a civil matter to be resolved privately between the relevant parties.
No guarantee will always be occupied only by those 55 and over.	A condition would be imposed if planning permission is granted to limit the occupation of the dwellings to those 55 years and older.
Concern about potential threat to mature tree at off-site junction to be improved	Noted.
Would be over-concentration of similar uses	Refer to section 5.3 of report.
Questions appropriateness of 3 bedroom houses and flats for a retirement complex.	Noted.
Inefficient use of land	Noted.

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

HEADS OF TERMS OF ANY SECTION 106 AGREEMENT

- No development to commence until 200th dwelling on Phase 2 has been completed and ready for occupation.
- No development to commence until the health centre, shops and mini-bus service approved as part of Phase 1 have been constructed / delivered and are operational.
- No market dwelling to be occupied other than by persons over 55 years of age.
- A cascade mechanism to be agreed to prioritise occupation of all units to residents of the District of Maldon (as per Phases 1 and 2).
- Provision, retention and future management and maintenance of community open space and strategy landscaping.
- Create / nominate Management Company with responsibility for future management and maintenance of children's play area, private open spaces, footways, related lighting, street furniture, signage etc and all landscaping.
- Extend permissive bridleway from Phase 2 through Phase 3 to countryside edge beyond.
- Total number of affordable housing units not less than 30% of total number of self-contained dwellings (rounded -up) subject to an Affordable Housing Scheme (type, tenure, location, design standards etc.).
- Affordable housing tenure split 75% affordable rent / 25% intermediate housing.
- Affordable housing to be constructed and transferred to a Registered Provider prior to occupation of 150th market dwelling.
- Financial contribution towards health care as required by the NHS and provide a range of care and support packages for the residents.
- Financial contribution (£25,000) for off-site highway improvements to B1010/B1021 junction/ or for local public transport improvements.
- Residential Travel Plan.

- Two bus stops along loop road in Phase 2.
- Electric cycles and recharging points and associated infrastructure.
- Extend Phases 1 and 2 minibus service into Phase 3.
- Extension to public footpath PROW 242_33 to link to Tinkers Hole Road.
- Provide public open space (greenways) and a LEAP before occupation of 200th dwelling; offer greenways to District Council for adoption at nil cost or transfer to a Management Company.
- Financial contribution towards RAMS.
- Prohibition of development commencing or preparatory work until Natural England licence(s) issued, if necessary.
- Information on site (all three Phases) and app / website to support RAMS and encourage recreation away from sensitive estuarine habitats.
- Offer skills training packages (as per Phases 1 and 2).
- Offer employment opportunities to local persons first (as per Phases 1 and 2).

PROPOSED CONDITIONS

- 1 Details of the appearance, landscaping and scale (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
REASON: To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
- 2 Application(s) for approval of the reserved matters shall be made to the Local Planning Authority no later than three years from the date of this permission.
REASON: To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
- 3 The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.
REASON: To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
- 4 The development shall be carried-out in accordance with the following plans:
 - Site Location Plan – 6888-A-1101-P1
 - Existing site plan – 6888-A-1102-P1
 - Proposed site plan (Masterplan) - 6888-A-1103-P3
 - Proposed site layout – Dimensions Plan 6888-1112
 - Proposed site plan 1-2 6888-A-1104-P2
 - Proposed site plan 2-2 6888-A-1105-P2
 - Proposed ground floor site plan 6888-A-1106-P2
 - Proposed ground floor site plans 1-5 6888-A-1107-P2 – 6888-A-1111-P2 (inclusive)
 - Proposed emergency access – Green Lane 2216/01 rev.AREASON: To ensure that the development is carried out in accordance with the details as approved.
- 5 As part of the application for ‘appearance’ reserved matter, details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted. The details as approved shall be constructed prior to occupation of the relevant part of the development, and thereafter shall be retained.
REASON: To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Local Development Plan.

- 6 As part of the application for the 'landscaping' reserved matter, full details and specifications of both hard and soft landscape works and shall be submitted. The landscaping details shall include, but not be limited to:
- the layout of the hard landscaped areas with the materials and finishes to be used
 - details of the means of enclosure,
 - car parking layouts,
 - 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; and
 - vehicle and pedestrian accesses.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The hard and soft landscaping works shall be carried out in accordance with the approved details before the relevant part of the development is occupied, and in accordance with an implementation programme that shall have previously been submitted to, and agreed in writing by, the local planning authority. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

REASON: In the interests of the character and appearance of this rural area, in accordance with Policies S8, D1 and H4 of the Maldon District Development Local Plan, the guidance contained in the Maldon District Design Guide SPD and the NPPF.

- 7 No development shall take place until an assessment of the risk posed by any contamination shall have been submitted to, and approved in writing by, the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites – Codes of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
- (i) a survey of the extent, scale and nature of contamination;
 - (ii) the potential risks to:
 - human health,
 - properly (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters
 - ecological systems
 - archaeological sites and ancient monuments.

REASON: To prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Local Development Plan.

- 8 No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to, and approved in writing by, the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation

criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to, and approved in writing by, the local planning authority before the development, or relevant phase of development, is occupied.

REASON: To prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Local Development Plan.

- 9 No development shall take place until a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented, and the reports produced as a result, shall be submitted to the local planning authority in accordance with a timetable as previously submitted to and approved in writing by the local planning authority. If any of these reports identifies any discrepancy with the verification report then a protocol, including timescale, for the necessary remediation shall be submitted to the local planning authority for approval in writing. Thereafter, any necessary remediation and verification shall be carried out in accordance with the approved protocol.

REASON: To prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Local Development Plan.

- 10 No development shall take place until a scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved and thereafter maintained.

REASON: To avoid the risk of water flooding and pollution in accordance with policies D2 and D5 of the Maldon District Local Development Plan and the NPPF.

- 11 No development shall take place, 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 include, but not be limited to:

- the on-site 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; and,
- wheel and underbody washing facilities.

REASON: 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 Maldon District Local Development Plan.

- 12 Prior to commencement of development, an Arboricultural Method Statement and Arboricultural Supervision Schedule shall be submitted to, and approved in writing by, the local planning authority. The statement and schedule shall provide indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. No other trees shall be removed or felled unless otherwise agreed in writing by the local planning authority. The approved documents shall be adhered to at all times.

REASON: To protect the visual amenity of this rural area in accordance with Policies S8, D1 and H4 of the Maldon District Development Local Plan, the guidance contained in the Maldon District Design Guide SPD and the NPPF.

- 13 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, has been submitted to, and approved in writing by, the local planning authority. The purpose of the Assessment is to establish the archaeological significance of the site.
REASON: To protect the archaeological interest of the site, in accordance with policy D3 of the Maldon District Local Development Plan.
- 14 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 a Written Scheme of Investigation which shall have been submitted to, and approved in writing by, the local planning authority. The Written Scheme of Investigation shall be informed by the results of the Archaeological Assessment. The development shall then be constructed in a manner that accommodates the approved programme of archaeological work. All fieldwork should be conducted by a professional recognised archaeological contractor.
REASON: To protect the archaeological interest of the site, in accordance with policy D3 of the Maldon District Local Development Plan.
- 15 No development shall take place until details of the external lighting strategy for the site, including the luminance and spread of light and the design and specification of the light fittings, have been submitted to, and approved in writing by, the local planning authority. The agreed illumination scheme shall be installed prior to occupation of the relevant part of the development. All external illumination within the site shall be retained in accordance with the approved details. There shall be no other lighting of the external areas of the site unless otherwise agreed in writing by the local planning authority.
REASON: To minimise light pollution upon nearby property including residential properties, the adjoining rural countryside and in the interests of biodiversity and ecology in accordance with policies D1, D2 and N2 of the Maldon District Local Development Plan.
- 16 Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to, and approved in writing by, the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development, or relevant phase of development, is resumed or continued.
REASON: To prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon District Local Development Plan.
- 17 No dwelling shall be occupied until a scheme detailing ecological enhancements has been submitted to and approved by the Local Planning Authority. Such details shall include the provision of bird and bat boxes. The ecological enhancements as agreed shall be implemented as approved and retained as such thereafter for a minimum period of five years from the date of completion of the development.
REASON: To improve and enhance the biodiversity value of the site in accordance with policy N2 of the Maldon District Local Development Plan.
- 18 No development shall take place until full details of an ecological mitigation scheme (including implementation timing / phasing and maintenance) have been submitted to and approved in writing by the Local Planning Authority. The ecological mitigation scheme shall follow the recommendations set out in the submitted Preliminary Ecological Appraisal Report.

REASON: To ensure appropriate protection to protected species is provided in accordance with the guidance of the National Planning Policy Framework and policy N2 of the Maldon District Local Development Plan.

19 Prior to occupation, a detailed surface water drainage scheme for the site shall have been submitted to, and approved in writing by, the local planning authority, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development. The scheme shall include, but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753;
- If infiltration is proven not to be viable then the scheme should be limiting discharge rates to no more than the 1 in 1 year greenfield rate, calculated off of the contributing area, for all storm events up to and including the 1 in 100 year plus 40% allowance for climate change storm event. All relevant permissions to discharge from the site into any outfall should be demonstrated;
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event;
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event;
- Final modelling and calculations for all areas of the drainage system;
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753;
- Detailed engineering drawings of each component of the drainage scheme;
- A final drainage plan which details exceedance and conveyance routes, finished floor and ground levels, and location and sizing of any drainage features; and,
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The development shall not be occupied until the drainage works have been completed in accordance with the submitted and approved scheme. The drainage works shall thereafter be retained.

REASON: To avoid the risk of water flooding and pollution in accordance with Policies D2 and D5 of the Maldon District Local Development Plan and NPPF.

20 No building shall be occupied until 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. Should any part be maintainable by a maintenance company, details of long term funding arrangements shall be provided. The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk in accordance with policies D2 and D5 of the Maldon District Local Development Plan and NPPF.

- 21 Prior to occupation, details of foul drainage scheme to serve the development shall have 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 avoid the risk of water flooding and pollution in accordance with policies D2 and D5 of the Maldon District Local Development Plan and the NPPF.
- 22 Cycle and vehicle parking shall be constructed, surfaced, laid out and made available for such purposes prior to the occupation of the relevant part of the development, in accordance with Maldon District Council's adopted standards, and retained as such thereafter. The approved cycle parking facilities shall be secure, convenient, covered and retained at all times.
REASON: To ensure appropriate parking is provided in accordance with the Council's adopted Vehicle Parking Standards and Policy D1 of the approved Maldon District Local Development Plan.
- 23 A strategy to facilitate superfast broadband for the future occupants of the dwellings hereby approved, either through below ground infrastructure or other means, should be submitted to the local planning authority for approval in writing. The method to facilitate superfast broadband shall be implemented in accordance with the approved strategy prior to the occupation of the relevant part of the development and retained thereafter.
REASON: To ensure that appropriate infrastructure is provided for the new development to meet the community needs, in accordance with policy I1 of the Maldon District Local Development Plan.
- 24 The market dwelling mix for the development hereby approved shall be as follows, unless otherwise agreed with the local planning authority in writing:
- 27no. one-bedroom bungalows;
 - 54no. two-bedroom bungalows;
 - 18no. three-bedroom bungalows;
 - 7no. one-bedroom apartments;
 - 16no. two-bedroom apartments;
 - 20no. three-bedroom apartments.
- REASON: To ensure that an appropriate housing mix is provided for the proposed development taking into account the objective of creating a sustainable, mixed community contained in Policies H1 and H2 of the approved Maldon District Development Local Plan and the NPPF.
- 25 A Waste Management Plan shall be submitted as part of either the appearance and/or the landscaping reserved matter(s) application(s), and shall thereafter be implemented as agreed.
REASON: To ensure that adequate refuse facilities are provided and in the interest of the visual amenity of the area in accordance with the requirements of policy D1 of the Maldon District Local Development Plan and the guidance as contained within the Maldon District Design Guide.
- 26 The development hereby approved shall be carried out in a manner to ensure that all the residential accommodation hereby approved comply with Building Regulation M4(3) 'wheelchair user dwelling'.
REASON: To ensure the residential units hereby approved provides high quality and flexible internal layouts to meet the needs of an aging population in accordance with policy H3 of the Maldon District Local Development Plan, the National Planning Policy Framework and the Maldon District Specialist Needs Housing SPD (2018).
- 27 The bungalows hereby permitted shall be no greater than single storey in height and the apartment blocks hereby permitted shall be no greater than two-storeys in height.

- REASON: To protect the visual amenity of the area in accordance with Policies S8, D1 and H4 of the approved Maldon District Development Local Plan, the guidance contained in the Maldon District Design Guide SPD and the NPPF.
- 28 No development shall take place until a Phasing Plan setting out the details of the phasing of the development, supported by a detailed phasing plan, shall be submitted to, and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in complete accordance with the approved Phasing Plan.
- REASON: To ensure that development is completed in accordance with an agreed phasing of development having regard to the provisions and guidance of the National Planning Policy Framework, and the Approved Maldon District Local Development Plan policies D1 and N2.
- 29 As part of the application for 'appearance' reserved matter, details of a scheme of renewable energy technologies to be incorporated into the development shall be submitted. The details as approved shall be constructed prior to occupation of the relevant part of the development, and thereafter shall be retained.
- REASON: To ensure that the details of the development are satisfactory in accordance with Policies D1, D2 and D4 of the Maldon District Local Development Plan and the NPPF.

INFORMATIVES

- 1 The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours:
- No waste materials should be burnt on the site, instead being removed by licensed waste contractors;
 - No dust emissions should leave the boundary of the site;
 - Consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
 - 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.
- 2 Ordinary watercourse consent will be required. Please see the following link: <https://www.essexdesignguide.co.uk/suds/further-guidance/ordinary-watercourseconsent/> Also, strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green / blue features effectively. The link can be found below. <https://www.essex.gov.uk/protecting-environment>
- 3 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:
SMO2 - Essex Highways,
Springfield Highways Depot,
Colchester Road,
Chelmsford.
CM2 5PU.
- 4 Anglian Water Services: (1) Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact

Development Services Team 0345 606 6087. (2) Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (3) Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. (4) Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (5) The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.