



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
08 FEBRUARY 2023**

Application Number	22/00482/OUT
Location	Golf Driving Range, Burnham Road, Woodham Mortimer
Proposal	Outline application with all matters reserved for up to 18 dwellings with a provision for affordable housing.
Applicant	Mr Ian Moss
Agent	Mr OToole – Elegant Architectural Ltd
Target Decision Date	10.02.2023
Case Officer	Devan Hearnah
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Member Call In by Councillor M F L Durham Reason: policies H5 (para. 5.37) and H4 Resubmitted to the Committee following consultation with the Monitoring Officer

1. PURPOSE OF REPORT

- 1.1 This report has been prepared with the purpose of providing Members with an update which, in Officers' view, is considered material to the determination of application 22/00482/FUL which members resolved to approve contrary to Officers' recommendation, subject to a S106 agreement with conditions delegated to Officers in consultation with the Chairman, on 05 October 2022. The committee report can be found at **APPENDIX 1**. This report is presented having regard to provisions within the Town and Country Planning Act 1990 (as amended), sec 70(2).
- 1.2 Following advice sought from the Monitoring Officer, Members should note that as this report is an addendum or update to item 22/00482/FUL considered by the North Western Area Planning Committee on 05 October 2022, only the Members who voted on that application at that time are permitted to vote on this item as part of this agenda.

2. APPLICATION HISTORY

- 2.1 The Area Planning Committee, in carrying out the functions of the Local Planning Authority (LPA) (in this case, the determination of a planning application) are bound by the Town and Country Planning Act 1990 as amended, and any relevant subordinate legislation. Members of the Area Planning Committee:
- are required to make decisions having regard to the development plan for the area (the Maldon Local Development Plan 2017 (MLDP)).
 - must have regard to the report of Officers submitted to that Area Planning Committee in carrying out their duty in making a decision on the recommendation in that report, having regard to the policies and any other

matters considered material to that proposal and as set out in the report (the material considerations).

- Members are, however, not bound to follow Officer's recommendations and can give different weight to different aspects as they understand the proposal, having regard to development plan policies and material considerations.

2.2 In this case, Members determined to approve the proposal contrary to the Officer's recommendation on the basis of the policies within the report and the weight they gave to the material considerations set out therein and any other matters that they considered to be material to the proposal. The draft reason for approval states:

'it was previously development land, in a sustainable location, adjacent to existing boundaries with a net gain in biodiversity.'

2.3 The Committee had resolved to approve the application, but at this time a formal decision of the Council, in the form of a decision notice, has not been issued. The decision will not be made, by the Council, until the decision notice has been prepared, signed and issued following due process. In part the intervening time, and due process, is accounted for by confirming the reason for approval and consulting on any conditions proposed with the Chairman of the Area Planning Committee and also agreeing the S106 agreement. Following the Area Planning Committee on 05 October 2022, two appeal decisions (**APPENDIX 2 & 3**) have been received that relate either to the sustainability of Woodham Mortimer as a location for housing (REF: APP/X1545/W/21/3283976) or to the weight to be attributed to previously developed land (REF: APP/X1545/W/21/3285300).

2.4 It is accepted that Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires a planning authority, in dealing with an application, to have regard (among other things) to all 'material considerations. It is incumbent therefore that, any new and relevant material consideration should be fully considered by the 'decision maker' prior to the determination of an application. This includes when additional information is made available in the period between an Area Planning Committee coming to a resolution and the decision notice being issued. This stance is supported in the case of *Kides V. South Cambridgeshire District Council* whereby the Judge provided clarity in regard to section 70(2) of the Town and Country Planning Act 1990, which required a planning authority, in "dealing with" an application, to "have regard to" (among other things) all "material consideration".

2.5 The judge determined that *"dealing with" includes anything done by or on behalf of the planning authority which bears in any way, and whether directly or indirectly, on the application in question. "dealing with" is not limited to the particular acts of the authority in granting or refusing permission. In temporal terms, the first act of a planning authority in "dealing with" an application will be its receipt of the application; and its final act will normally be the issue of the decision notice'.*

2.6 He opined that a consideration is "material", if it is relevant to the question whether the application should be granted or refused; that is to say if it is a factor which, when placed in the decision-maker's scales, would tip the balance to some extent, one way or the other. In other words, it must be a factor which has some weight in the decision-making process, although plainly it may not be determinative. The test must, of course, be an objective one in the sense that the choice of material considerations must be a rational one, and the considerations chosen must be rationally related to land use issues.

2.7 In developing his position, he further stated that 'an authority's duty to "have regard to" material considerations is not to be elevated into a formal requirement that in

every case where a new material consideration arises after the passing of a resolution (in principle) to grant planning permission but before the issue of the decision notice there has to be a specific referral of the application back to committee.'

- 2.8 The above decision provides clear guidelines in relation to where new material considerations arise before the decision notice is issued. Stating '*where the delegated officer who is about to sign the decision notice becomes aware (or ought reasonably to have become aware) of a new material consideration, section 70(2) requires that the authority have regard to that consideration before finally determining the application. In such a situation, therefore, the authority of the delegated officer must be such as to require him to refer the matter back to committee for reconsideration in the light of the new consideration. If he fails to do so, the authority will be in breach of its statutory duty*'.
- 2.9 Taking into account the above, on 19 January 2023 and 20 January 2023 two appeal decisions were issued by the Planning Inspectorate which are considered to be a material consideration of significant weight in the determination of this application. These appeal decisions can be found at **APPENDIX 2** (REF: APP/X1545/W/21/3283976) and **APPENDIX 3** (REF: APP/X1545/W/21/3285300) to this report.

3. KEY POINTS

- 3.1 As detailed within the original Officer report attached at **APPENDIX 1**, application 22/00482/OUT seeks outline planning permission with all matters reserved for the demolition of the existing building and replacement of the driving range and pitch and putt with eighteen dwellings with garages and parking.
- 3.2 Appeal APP/X1545/W/21/3283976 (**APPENDIX 2**) relates to an outline application with all matters reserved, for the erection of one dwelling and a detached car port in Bryants Lane, Woodham Mortimer. It should be noted that like the subject scheme seeking planning permission, the dwelling subject of the appeal at **APPENDIX 2** sought planning permission for residential accommodation outside of the settlement boundaries of Woodham Mortimer. In respect of the appeal at **APPENDIX 3** the Inspector discusses the importance of the reuse of Previously Developed Land.
- 3.3 During the Committee meeting relating to this application Members resolved to approve the development due to the site being previously development land, in a sustainable location, adjacent to the settlement boundaries, with a net gain in biodiversity. It is considered pertinent to note that the following points of the attached appeal decisions which directly relate to the reasons for approval:

APP/X1545/W/21/3283976 – Land adjacent The Willows, Bryants Lane, Woodham Mortimer.

- Point 6 of the appeal decision states: '*...the settlement [Woodham Mortimer] is identified in Policy S8 of the Maldon Local Development Plan 2017 (the MLDP) as a 'smaller village. In terms of the settlement hierarchy this is identified as a settlement containing few or no services and facilities, with limited or no access to public transport and very limited or no employment opportunities. In this context Woodham Mortimer is not identified as one of the more sustainable locations to deliver housing to meet local needs.'* Just like the dwellings subject of this application, the closest settlement boundary to the appeal scheme is Woodham Mortimer. The Inspector concluded that

Woodham Mortimer is not one of the more sustainable locations to deliver housing to meet local needs. This was considered by the Inspector in the context of one house. Therefore, the impacts in respect of 18 dwellings and the number of people who will be reliant on private transport will have materially greater impacts than the appeal scheme.

- Point 7 of the appeal decision states: '*... there is a public house, village hall and playing field in the village but these are some distance from the appeal site and would involve crossing the A414 which is a busy road with fast flowing traffic. There are also bus stops on the A414 to the south of the appeal site. I noted there is no shelter for westbound buses which would limit the attractiveness of using buses in this direction. Moreover, there is no safe, lit pedestrian footway along Bryants Lane to reach these bus stops, no lighting on the A414 and no continuous safe footway via Conduit Lane into the main village area of Woodham Mortimer. Given the limited services in Woodham Mortimer and the lack of footways and nature of bus infrastructure I find that future occupancy of the proposed dwelling would be highly reliant on use of the motor car. This would be contrary to securing a sustainable pattern of development in the district and the need to transition to a low carbon future.*'

The occupiers of the units proposed as part of this application would also be required to cross the A414 for eastbound bus services and there is still no shelter on the western bound bus stop. Likewise, as the Inspector has noted there would be no lighting on the A414 for anyone wishing to use this service. In addition, the Inspector has recognised that Conduit Lane does not provide a continuous safe footway. Therefore, whilst it was put forward by the Applicant as part of the application that the bus stops on the A414 and Post Office Road, accessed via Conduit Lane, could be utilised by the future occupiers, it is clear from the Inspector's findings that the lack of footways and lighting would act as deterrents to using the local bus service. Although the application site subject of this report is located in a different location to the appeal site, the concerns raised and discussed by the Inspector in respect of the bus stops, footpaths, roadways and access to the main facilities such as the Public House, are applicable to this proposal and are material to the consideration of this application.

- Point 8 of the appeal decision states: '*I therefore conclude that the appeal proposed would not be sustainably located.*' Although the application site is located closer to the settlement boundaries than the appeal scheme, (approximately 175m vs abutting the settlement boundary) the same concerns in respect of accessibility to sustainable forms of transport and the service and facilities within the settlement boundaries, as discussed above, apply. Furthermore, the Inspector's conclusion in respect of the sustainability of the site's location relates to the lack of services and facilities provided within the village of Woodham Mortimer itself, determining that the village is not one of the most sustainable villages for residential development. This is equally as applicable to the application subject of this report.
- Point 20 of the appeal decision states: '*The LPA accepts that it currently cannot demonstrate a five year supply of deliverable housing land...Consequently having regard to the NPPF paragraph 11d), Policies S1 and S8 as most relevant policies for determining the proposal are out-of-date because the spatial strategy is not delivering the required housing need. In*

such there is a presumption to grant planning permission subject to the approach at NPPF paragraphs 11d) i) and ii).' This point remains valid as part of this application as the Council are still unable to demonstrate a Five Year Housing Supply (5YHS).

- Point 23 of the appeal decision states: *Whilst I have found that Policies S1 and S8 are out-of-date that does not mean they are of no weight.* The need to carefully manage and limit the number of new homes in locations with relatively few sustainability credentials remains valid in the context of the environmental objectives of national and local planning policy and so I afford the harm arising from the conflict with Policies S1 and S8 significant weight. This point is relevant to this application in that it identifies that the location and accessibility of a site still warrants significant weight in the planning balance regardless of the trigger for the 'presumption in favour of sustainable development'.

APP/X1545/W/21/3285300 – Knightswood Centre, Steeple Road, Southminster

- Point 29 of the appeal decision states: *The main parties agree this to be a brownfield site and consequently its reuse meets the objectives of paragraph 119 of the Framework relating to the efficient use of land.* The application site is similar in that it represents brownfield land and therefore the proposal would meet the objectives of paragraph 119 of the NPPF in that respect.

4. CONCLUSION

4.1 All resolutions for planning applications should be based on evidence. As case law has shown (*Stringer v Minister of Housing and Local Government*) the remit for what can be a material consideration is extensive. However, (*Tesco caselaw*) is also a basic point of planning law that the weight to be attributed to a material consideration is up to the decision-maker as long as it is not 'Wednesbury Unreasonable'. Case law also sets out the principle and considerations to be taken into account when new material is presented following a resolution to approve and before the issuing of a decision notice, and the requirement of what is incumbent on the LPA to have regard to this information where it considers it is material to do so. The above-mentioned appeal decision at *Woodham Mortimer (APP/X1545/W/21/3283976)* provides a material consideration that should be afforded significant weight in the determination of this application. It is considered to provide further justification for the refusal of this application in line with the Officers' recommended first reason for refusal as found below:

4.2 *'The application site is in an unsustainable and rural location and remote from essential support facilities and community services; is inaccessible by a range of transport modes and is located where the need to travel would be maximised and the use of sustainable transport modes would be minimised and would therefore represent an unsustainable form of development, failing in relation to the social strand of sustainability. Therefore, the proposal conflicts with the National Planning Policy Framework's "presumption of sustainable development" and policies S1, S8 and T2 of the Maldon District Local Development Plan. '*

4.3 The appeal decision at Southminster (*APP/X1545/W/21/3285300*) is also a material consideration in the determination of this application as it further acknowledges the need to support the reuse of brownfield land. However, given the weight attributed to the need for housing to be sustainably located by the Inspector in the *Woodham*

Mortimer decision and the direct comparisons to be made between the locations of that site and this application, it is not considered that the reuse of Previously Developed Land would significantly and demonstrably outweigh the harm in respect of the site's location.

4.4 Should Members be minded to approve the application subject to a S106 agreement, the following conditions are recommended:

- 1 Details of the appearance, access, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the LPA before any development begins and the development shall be carried out as approved.

Application(s) for approval of the reserved matters shall be made to the LPA no later than three years from the date of this permission.

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).

- 2 As part of the reserved matters details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the LPA. The screening as approved shall be constructed prior to the first use/occupation of the development to which it relates and be retained in perpetuity as such thereafter.

REASON: To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Local Development Plan.

- 3 The landscaping details referred to in Condition 1 shall provide full details and specifications of both hard and soft landscape works which shall be submitted to and approved in writing by the LPA. Such details shall be submitted concurrently with the other reserved matters. These landscaping details shall include the layout of the hard landscaped areas with the materials and finishes to be used together with details of the means of enclosure, car parking layout, vehicle and pedestrian accesses.

All of the hedgerow boundaries, shall be retained and maintained at all times thereafter, unless otherwise agreed with the LPA.

The details of the soft landscape works shall include schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers / densities and details of the planting scheme's implementation, aftercare and maintenance programme.

The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the LPA.

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

planted shall be planted in the same place, unless the LPA gives its written consent to any variation.

REASON: To ensure that protected species are not harmed during the course of development and that the details of the development are satisfactory and in the interest of the visual amenity of the area, in accordance with policy D1 of the Maldon District Development Local Plan and the guidance contained in the Maldon District Design Guide (MDDG) SPD.

- 4 The scheme to be submitted pursuant to the reserved matters shall make provision for car parking for the residential element within the site in accordance with the Council's adopted parking standards at the time of submission. Prior to the occupation of the development the parking areas shall be constructed, surfaced, laid out and made available for such purposes in accordance with the approved scheme and retained as such thereafter.

REASON: To ensure appropriate parking is provided in accordance with Policies T1 and T2 of the Maldon District Development Local Plan and the Council's adopted Vehicle Parking Standards (2018).

- 5 The height of the buildings submitted as part of the Reserved Matters shall not be in excess of 9m.

REASON: To ensure that the development is as applied for and to protect the visual amenity of the area in accordance with Policy D1 of the Maldon District Development Local Plan and the guidance contained in the MDDG SPD.

- 6 The dwelling mix for the development hereby approved shall accord with the housing mix requirement set out within the Maldon District Local Housing Needs Assessment 2021.

REASON: In order to ensure that an appropriate housing mix is provided for the proposed development taking in to account the objective of creating sustainable, mixed community in accordance with Policy H2 of the Maldon District Development Local Plan and the guidance contained in the NPPF.

- 7 The development hereby approved shall be carried out in a manner to ensure that a minimum of 80% of the dwellings, in all tenures, should meet the M4(2) 'accessible and adaptable dwellings' standards.

REASON: In order to ensure that an appropriate housing mix is provided for the proposed development taking in to account the objective of creating sustainable, mixed community in accordance with Policy H2 of the Maldon District Development Local Plan and the guidance contained in the NPPF.

- 8 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the LPA. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- Wheel 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 the Maldon District Development Local Plan.

- 9 A scheme in accordance with Maldon District Council's (MDC) adopted standards for cycle parking shall be submitted to, and approved in writing by, the LPA. The cycle parking, as approved, shall be provided prior to the beneficial occupation of the development hereby approved. The approved facilities shall be used for no other purposes and retained in perpetuity.

REASON: To ensure that cycle parking is proposed in accordance with the Vehicle Parking Standards SPD and policies D1 and T2 of the Maldon District Development Local Plan.

- 10 Prior to the commencement of development a Biodiversity Net Gain Strategy setting out how the development shall result in a minimum biodiversity net gain of 10% shall be submitted to and approved in writing by the LPA.

The Biodiversity Net Gain Strategy shall be implemented in accordance with the approved details, and in accordance with a timetable agreed as part of the strategy, and shall be retained in that manner thereafter.

REASON: To enhance protected and Priority species & habitats in accordance with Policy N2 and to allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

- 11 A Waste Management Plan shall be submitted to as part of the reserved matters application(s).

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 Development Local Plan and the provision and guidance as contained within the MDDG.

- 12 A strategy to facilitate superfast broadband for future occupants of the residential buildings shall be submitted to and approved in writing by the LPA.

The strategy shall seek to ensure that upon occupation of a dwelling ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway, unless evidence is put forward and agreed in writing by the LPA that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure.

The development of the site shall be carried out in accordance with the approved strategy and retained in perpetuity.

REASON: In order to ensure that suitable infrastructure is provided at the site for the benefit of future occupiers, in accordance with policy I1 of the Approved Maldon District Development Local Plan and the NPPF and PPG.

- 13 Prior to agreement of reserved matters relating to site layout, a noise assessment detailing the noise environment across the site, in relation to BS8233:2014 will be submitted and approved. The noise assessment will include details, where identified as necessary, of any identified mitigation measures. The internal ambient noise level shall not exceed the guideline values in BS8233:2014 Table 4. For external areas that are used for amenity space, such as gardens and patios, the external noise level shall not exceed 55 dB LAeq,T, as indicated in BS8233:2014 paragraph 7.7.3.2. Only the approved scheme shall be implemented and maintained in the approved form thereafter.

REASON: In the interests of neighbouring amenity and the living conditions of the future occupiers in accordance with Policies S1, D1 and H4 of the Maldon District Development Local Plan.

- 14 Prior to the commencement of the development details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development and retained thereafter.

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

- 15 Notwithstanding the details submitted with this application, no development shall commence, other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of

underground tanks and old structures, and any construction until an investigation and risk assessment has been submitted to and approved in writing by the LPA. The risk assessment shall assess the nature and extent of any contamination on the site whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:

- (i) a survey of extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - o Human health,
 - o Properly (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o Adjoining land,
 - o Groundwaters and surface waters,
 - o Ecological systems
 - o Archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the LPA.

REASON: To understand the nature and extent of contamination in accordance with Policy D2 of the approved Maldon District Development Local Plan.

- 16 Where identified as necessary in accordance with the requirements of condition 15 no development shall commence, other than where necessary to carry out additional investigation, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The development hereby permitted shall not commence until the measures set out in the approved scheme have been implemented, unless otherwise agreed in writing by the LPA. The LPA may give approval for the commencement of development prior to the completion of the remedial measures when it is deemed necessary to do so in order to complete the agreed remediation scheme. The LPA must be given two weeks written notification of commencement of the remediation scheme works.

This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the LPA.

REASON: To ensure that contamination does not pose a risk to human health in accordance with Policy D2 of the Maldon District Development Local Plan

- 17 The remediation works shall be carried out prior to commencement of the development unless where commencement is required to carry out

remediation. The approved remediation scheme must be carried out in accordance with the details approved unless otherwise agreed in writing by the LPA.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced. This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the LPA.

- 18 REASON: To prevent the undue contamination of the site in accordance with Policy D2 of the Maldon District Development Local Plan
Should the existence of any contaminated ground or groundwater and/or hazardous soil gases be found that were not previously identified or not considered in a scheme agreed in writing with the LPA, it must be reported in writing immediately and a risk assessment of the site shall be undertaken and a scheme to bring the site to a suitable condition shall be submitted to and agreed in writing with the LPA. A "suitable condition" means one in that represents an acceptable risk to human health, the water environment, property and ecosystems and scheduled ancient monuments and cannot be determined as contaminated land under Part 2A of the Environmental Protection Act 1990 now or in the future.

The work will be undertaken by a competent person in accordance with DEFRA

and the Environment Agency's 'Model Procedures for the Management of Land Contamination (CLR 11), the Essex Contaminated Land Consortium's Land Contamination Technical Guidance For Applicants and Developers and current UK best-practice guidance and policy.

- 19 REASON: To ensure that contamination does not pose a risk to human health in accordance with Policy D2 of the Maldon District Development Local Plan
No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has submitted an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site. Such archaeological assessment shall be approved by the LPA and will inform the implementation of a programme of archaeological work. The development shall be carried out in a manner that accommodates such approved programme of archaeological work.

- 20 REASON: To protect the site, which is of archaeological interest, in accordance with policy D3 of the Maldon District Development Local Plan.
No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has secured the implementation of a programme of archaeological work from an accredited archaeological contractor in accordance with a written scheme of investigation which has been submitted to and approved in writing by the LPA. The development shall be carried out in a manner that accommodates the approved programme of archaeological work.

- 21 REASON: To protect the site, which is of archaeological interest, in accordance with policy D3 of the Maldon District Development Local Plan.
No development shall commence until information has been submitted and approved in writing by the LPA in accordance with the requirements of BS5837:2012 in relation to tree retention and protection as follows:

- Tree survey detailing works required
- Trees to be retained
- Tree retention protection plan
- Tree constraints plan
- Arboricultural implication assessment
- Arboricultural method statement (including drainage service runs and construction of hard surfaces)

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

REASON: To ensure that appropriate tree protection and management is in place in the interests of ecology and the character and appearance of the area in accordance with Policies S1, D2 and N2 of the MDLDP 2014

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No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the LPA. The scheme should 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.
- Limiting discharge rates to 1l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party/ 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, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

REASON: To avoid the risk of water flooding and pollution in accordance with policy D2 of the MDLDP.

- 23 No works shall take place until a scheme to minimise the risk of offsite 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 LPA. The scheme shall subsequently be implemented as approved and retained thereafter.

REASON: To avoid the risk of water flooding and pollution in accordance with policy D2 of the MDLDP.

- 24 Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the LPA, and retained thereafter.

Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.

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

- 25 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 LPA in perpetuity.

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

- 26 Prior to the submission of the Reserved Matters a comprehensive ecological survey of the site shall have been undertaken to ascertain if any protected or priority species are present. The results of the survey shall be submitted to and approved in writing by the local planning authority along with details of the provision and implementation of ecological mitigation to protect any protected species if found to be present. The development shall be carried out and completed in accordance with the approved mitigation scheme and retained thereafter.

REASON: In the interests of protected and priority species in accordance with Policy D2 of the Maldon District Development Local Plan.

- 27 Prior to the first occupation of any dwelling hereby approved the use of the land and existing building for the sale of gas bottles, a golf driving range and pitch and putt course shall cease.

REASON: To ensure that the development is carried out as approved.

- 28 Prior the first occupation of any dwelling hereby approved the existing building on site shall be demolished.

REASON: To ensure that the development is carried out as approved.