



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
21 JUNE 2023**

Application Number	23/00201/OUT
Location	Land west of Willows End, Stephenson Road, North Fambridge
Proposal	Outline planning permission (with all matters reserved for future determination) for erection of five dwellings.
Applicant	Ms Alison Rampling
Agent	Mr John Pearce
Target Decision Date	2 June 2023 (EOT to this date)
Case Officer	Lisa Greenwood
Parish	NORTH FAMBRIDGE
Reason for Referral to the Committee / Council	Not delegated to officers as a departure from the local plan.

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 a necessary financial contribution towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy and subject to the conditions as detailed in Section 8.

2. SITE MAP

Please see below.

**Land west of Willows End
Stephenson Road**



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	North Fambridge
	Date:	02/05/2023
www.maldon.gov.uk	MSA Number:	100016588

3. SUMMARY

3.1 Site Description

- 3.1.1 The application site is located on the north western side of Stephenson Road, adjacent to the defined settlement boundary of North Fambridge which runs along the eastern edge of the site. The application site is located at the end of a run of residential dwellings which front Stephenson Road and are arranged in a linear formation. Stephenson Road is predominantly characterised by semi-detached and detached single storey bungalows and on the southern side of Stephenson Road there are examples of one-and-a-half storey chalet bungalows.
- 3.1.2 The application site is roughly rectangular in shape. The application form submitted to support the proposal confirms that the site measures 0.52 hectares in area. The site comprises of grassland and is bound by a mature hedgerow. To the south and west of the site lie open fields, and to the north of the site is the Southminster branch railway line. It is noted that there are views from the application site to the residential development further south of the site, which forms part of a David Wilson Homes Development.
- 3.1.3 This is a revised scheme across an extended site area, following the granting of planning permission for the erection of 2no. dwellings (planning reference 22/00734/OUT).

3.2 The Proposal

- 3.2.1 Outline planning permission with all matters reserved is sought for the residential development of the site for up to 5no. dwellings. This application follows a recently approved outline planning application with all matters reserved for future determination at the site for the residential development of land for the erection of two dwellings (site area 0.2 ha, planning reference 22/00734/OUT). Outline planning permission was granted on 18 November 2022, subject to the approval of a Section 106 of the Town and Country Planning Act 1990 (as amended) to secure a necessary financial contribution towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy. The current scheme includes the two approved dwellings.
- 3.2.2 The outline application procedure allows for applicants to identify specific matters for consideration which include the principle of development, layout, access, scale, appearance and landscaping. The application form submitted to support the proposal has identified that this application is to consider the principle of development only.
- 3.2.3 Should outline planning permission be forthcoming, the considerations of layout, access, scale, appearance and layout would form a subsequent reserved matters application. Nevertheless, all material planning considerations are relevant where applicable to this application including the impact on highways, ecology and trees.

3.3 Conclusion

- 3.3.1 The proposed development has been found to represent a sustainable form of development. The application site would be able to accommodate 5no. dwellings in a form that would be in keeping with the prevailing pattern of development found at Stephenson Road. The site is sufficiently sized to provide an extended vehicular access, sufficient room for car parking to be achieved and adequate private amenity space to meet the requirements of the Maldon District Design Guide (MDDG) (2017).

It would also be possible for 5no. dwellings to be designed to ensure that there would be no impact to the residential amenity of neighbouring occupiers.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2021 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision making
- 47-50 Determining applications
- 55-59 Planning conditions and obligations
- 60-80 Delivering a sufficient supply of new homes
- 104-113 Promoting sustainable travel
- 119-125 Making effective use of land
- 126-136 Achieving well designed places
- 152-173 Meeting the challenge of climate change, flooding and coastal change
- 174-183 Conserving and enhancing the natural environment

4.2 Maldon District Local Development Plan (2017)

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D5 Flood Risk and Coastal Management
- H1 Affordable Housing
- H2 Housing Mix
- H4 Effective Use of Land
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services
- I2 Health and Wellbeing

4.3 Relevant Planning Guidance / Documents:

- Vehicle Parking Standards (2018)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide (MDDG) (2017)
- Local Housing Needs Assessment (LHNA) (2021)

5. **MAIN CONSIDERATIONS**

5.1 **Principle of Development**

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990), and Paragraph 47 of the National Planning Policy Framework (NPPF) (2021) require that planning decisions are to be made in accordance with the Development Plan (LDP) unless material considerations indicate otherwise. In this case the Development Plan comprises of the adopted Maldon District Local Plan 2014-2029 (The Local Development Plan or LDP).
- 5.1.2 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.
- 5.1.3 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 use residential properties but does allow at (m) of S8, development which complies with other policies of the LDP. As such, although there is conflict with Policy S8, it is officers’ view that this is balanced against other material considerations which are discussed further in the report. Of relevance to this consideration are: Policy I2 which states that suitable types of residential development which cater for the ageing population and support healthy and independent lives will be provided; and Policy H3 which supports the provision of housing for ‘specialist’ needs.
- 5.1.4 As per Paragraph 74 of the NPPF, the Council, as the Local Planning Authority (LPA) for the Maldon District is expected to “identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.” To this end, Maldon District Council prepares and publishes a Five Year Housing Land Availability Report, annually, following the completion of the development monitoring activities associated with the LDP 2014-2029’s plan monitoring period of 1 April to 31 March.
- 5.1.5 Work has recently been carried out by the Council in reviewing the suitability of the Five Year Housing Land Supply (5YHLS) methodology through its 5YHLS working group established in August 2022. The work has now assessed the current 5YHLS figure as 6.35 years. At its Statutory Annual committee meeting on the 18 May 2023 the Council subsequently confirmed that the official 5YHLS for the District of Maldon now stands at 6.35 years, updating the previous official position for 2021/2022 of 3.66 years. This means that the Council’s presumption in favour of sustainable development position against paragraph 11 (d) footnote 8 has changed as the Council can now demonstrate a 5YHLS. However, whilst the policies in the plan have now regained their status due to the improved 5YHLS figure, it should be noted that this is not a ceiling to development as maintaining a minimum of a 5YHLS is reliant on a balance of delivery of housing on the ground and approval of new permissions. The Council is therefore now in a robust position in its consideration of new development, particularly where the benefits against the harm are to be weighed up in terms of sustainability (in terms of the NPPF, and the LDP), the provision of the most suitable types of housing for the district, impact on the countryside, heritage and protected sites, and the provision of appropriate levels of infrastructure.

- 5.1.6 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. As stated, the LDP through Policy S1 re-iterates the requirements of the NPPF. Policy S1 allows for new development within the defined development boundaries. Paragraph 79 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.”

- 5.1.7 Accessibility is a key component of the environmental dimension of sustainable development. Policy T1 aims to secure the provision of sustainable transport within the District. Policy T2 aims to create and maintain an accessible environment. Policy D2 of the same Plan seeks to reduce the need to travel, particularly by private vehicle, by encouraging sustainable modes of transport. Paragraph 105 of the NPPF acknowledges that “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.” This is supported by the update of the Government’s Policy Paper, ‘Strategic road network and the delivery of sustainable development’ (Updated 23 December 2022), which is to be read in conjunction with the NPPF. Paragraph 12 of this paper asserts that “new development should be facilitating a reduction in the need to travel by private car and focused on locations that are or can be made sustainable.”

- 5.1.8 The application site is located adjacent to the defined settlement boundary of North Fambridge, which is classified in the LDP as a “smaller village” which has limited access to services and facilities. There is a local train station located 250 metres to the north west of the site, which serves the Southminster line from Wickford to Southminster. For clarity, Station Approach is directly opposite Stephens Road, on the other side of Fambridge Road. It is also acknowledged that future occupants of the site would be required to walk down a road which does not have formal street lighting (due to it being a private road) to access the nearby services. However, this would only be of minor concern in the evening and night, given that the road is of limited length and there is no through traffic. Furthermore, the existing housing is not set significantly back from the highway and as such, illumination from existing dwellings would provide incidental background lighting to the street scene making the environment much more accommodating for pedestrian movement. It is noted that there have been several previous appeal decisions for residential development adjacent to the settlement boundary of North Fambridge which have determined that these locations are ‘relatively sustainable’ being within reasonably easy walking distance of the railway station, with mainline service connections and bus services. These appeal decisions relate to the following planning application references: 11/01085/FUL, 14/00836/FUL, 18/00428/FUL. It was concluded in those appeal decisions that the future occupiers of these sites would have access to a range of services, facilities and employment, due to their proximity to the train station, without reliance on the private car. In particular, the Inspector for reference 14/00836/FUL, which was for a site located south of Stephenson Road, states:

“I recognise that the appeal site is reasonably sustainably located with regard to access to the railway station.”

- 5.1.9 The Inspector for the appeal regarding application reference 18/00428/FUL, which related to a site on Bullers Road to the north of this application site stated;

“Whilst in policy terms the site falls outside of the defined limits of North Fambridge, visually it appears to sit comfortably within the built form limits of the village. Its close proximity to local services and transport links also makes it a reasonably sustainable location, which is part of the reasoning behind Policies S1, S2 and S8.”

The particular location of the appeal site and its context is a material consideration in this case to which I afford significant weight. I therefore consider that in this case the material considerations outweigh the harm caused by the conflict of Policy S8.”

- 5.1.10 The current application site is located more closely to the train station than the sites related to the aforementioned appeals (as set out in 5.1.7 above). Further, planning permission has been granted on part of the application site in November 2022, particularly as the site was found to be sustainable.
- 5.1.11 Furthermore, it is also noted that the Council has recently granted planning permission for housing outside of the settlement boundary on sites that are considered to have a greater need to use vehicular means of transport to access the services and facilities required for day-to-day living. These decisions include a development for 18 houses outside of the settlement boundary for Woodham Mortimer (planning reference 22/00482/OUT) and for a dwelling outside of the settlement boundary for Mayland (planning reference 21/00628/FUL). In both instances, these sites were more remote from facilities than the application site in question and were found to be acceptable by the Council.
- 5.1.12 In respect of the above, when assessing the sustainability credentials of the site the provision of residential housing within this location has been found to be acceptable in principle. The merits of the scheme are assessed below.

5.2 Housing Mix and Affordable Housing

- 5.2.1 The Housing Needs Assessment (HNA) (2021) is an assessment of housing need for Maldon District as a whole, as well as sub-areas across the District which are considered alongside the housing market geography in this report. The HNA is wholly compliant with the latest NPPF (2021) and Planning Practice Guidance and provides the Council with a clear understanding of the local housing need in the District and demographic implications of this, the need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build housing.
- 5.2.2 The specific housing mix for the proposed development is not specified. The HNA concludes that the District has a need for smaller dwellings, with the biggest requirement for 3-bed dwellings (specifically 40-50%). The precise housing mix could be secured via the imposition of a condition on any forthcoming consent to ensure that any future development is policy compliant and would meet the Council’s identified need for smaller dwellings. Albeit a limited contribution, this weighs in favour of the scheme.
- 5.2.3 The proposal has been reviewed by the Council’s Strategic Housing Services team, who note that the application site has an area of 0.52 hectares and is therefore a major application as set out in the NPPF (2021), thus triggering an affordable housing requirement. Policy H1 of the LDP stipulates that the affordable housing requirement for North Fambridge (rural south) is 40%. Notwithstanding this, the LDP states that affordable housing provision will be sought only on housing developments of more than 10 units or 1000 square metres. The proposal is an outline proposal for

5no. dwellings, and an email has been received from the agent for the applicant (dated 23 May 2023) to confirm that the proposed dwellings will have a maximum floor area of 190 square metres, resulting in a maximum floor area of 950 square metres. To ensure that the dwellings (and any associated outbuildings) do not have a total floor area greater than 950 square metres a condition is to be imposed on any forthcoming permission.

- 5.2.4 In addition, the proposal would provide for a 5 bungalow development which would add to the variety of housing stock relevant to a residential area, and enable choice of housing forms necessary for varying family types and age profiles, particularly for an ageing population

5.3 Design and Impact on the Character of the Area

- 5.3.1 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. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Policy D1 of the LDP and The MDDG (2017) are relevant in this respect.
- 5.3.2 The application site is located at the end of an existing residential street, which is arranged in a linear formation and fronted by bungalows and chalet bungalows. The site comprises of paddock laid with mowed grass and is bounded by mature hedgerows and is located on the periphery of the defined settlement boundary. The previous application (reference 22/00734/OUT) acknowledged that the site makes a limited contribution to the character and appearance of the area. The proposed development the subject of this report would appear as a continuation of the residential development at Stephenson Road, and would be relatively contained within the existing hedgerow boundary, as the openness of the site is limited, due to the hedgerow restricting views into the adjoining countryside, and the landscaping would assist in reducing any residual harm caused to the character of the rural area.
- 5.3.3 The previous Officer's report makes reference to a scheme for a single dwelling along a rural road with no formal footpath outside of the settlement boundary for Mayland (planning reference 21/00628/FUL), which is located further away from the settlement boundary, and in a more isolated position. Further, the previous application at the site (planning reference 22/00734/OUT) was granted planning permission. Albeit the revised scheme extends the approved site area, the mature hedgerow remains, and the proposal would cause no materially greater harm to the character and appearance of the area than the approved scheme. Overall, the site is of a sufficient size (0.5 hectares) and position within the street scene at Stephenson Road to enable the erection of 5no. dwellings without causing demonstrable harm to the character and appearance of the area.
- 5.3.4 As stated, the built form at Stephenson Road typically comprises of bungalows and chalet bungalows. Full details of the design and layout would be considered at the reserved matters stage. However, it is reasonable to consider that the proposed dwellings would not be higher than one storey in height, in order to protect the character and appearance of the area and in keeping with the existing street scene. A condition is therefore imposed to this effect on any forthcoming planning permission. Stephenson Road comprises of pairs of semi-detached bungalows, as well as detached properties. It is therefore not reasonable to require that the proposed dwellings would be either semi-detached or detached.

5.4 Impact on Residential Amenity

- 5.4.1 The basis of Policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.4.2 The application is outline in nature, with all matters relevant to the impact on neighbouring residential amenity such as privacy, daylight and sunlight etc. being reserved for future consideration. A broad assessment has therefore been provided.
- 5.4.3 The revised scheme would result in the development of 5no. dwellings and for the reasons stated at Paragraph 5.2 of this report, is considered to be compatible with its wider surroundings in terms of use and would not adversely impact upon the amenities of the neighbouring occupiers in this respect.
- 5.4.4 The site abuts residential development to the east, which comprises of bungalows and chalet style bungalows. By virtue of the area of the site, and given the quantum of development proposed, an appropriate layout can be achieved that would not detrimentally impact the neighbouring occupiers. This would be considered at the reserved matters stage.
- 5.4.5 A noise assessment (Sharps Redmore, 31 January 2023) has been provided to support the proposal, and this has been reviewed by the Council's Environmental Health Officer. The Officer has confirmed that the assessment demonstrates that both internal and external noise levels will comply with the guidance in BS8233:2014, and the World Health Organisation guidelines. Whilst the application is outline only, indicative plans and the planning statement indicate that dwellings would be in line with the existing development at Stephenson Road. The Officer raises no objection, however, should planning permission be forthcoming, a condition is to be imposed with regard to a construction management plan, which will restrict the working hours, surface water drainage, and foul water drainage together with managing general working conditions to ensure local amenity is not significantly disrupted beyond what would be expected from a new build work. Subject to the imposition of such conditions, the proposal would not result in an unneighbourly form of development or give rise to overlooking or overshadowing, in accordance with the stipulations of Policy D1 of the LDP.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 of the LDP aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted Parking Standards. Similarly, Policy D1 of the LDP seeks to include safe and secure vehicle and car parking, having regard to the Council's adopted Parking Standards and maximise connectivity within the development and to the surrounding areas.
- 5.5.2 Matters in relation to access, layout, and the provision of parking would be assessed at the reserved matters stage. However, it is noted that the site is to be accessed by an established access from a private unadopted road. The proposal has been reviewed by the Highways Authority who confirm that as Stephenson Road is a private road, from a highway and transportation perspective, the impact of the proposal is acceptable to the Highways Authority, as it is not contrary to any of the Authority's Development Management Policies.

5.5.3 The number of bedrooms is not yet known; therefore, this would be a matter that would be assessed at the reserved matters stage. However, owing to the site area the proposed development could suitably accommodate 2no. or 3no. parking spaces, in accordance with the Council's Vehicle Parking Standards (2018).

5.6 Private Amenity Space and Landscaping

5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG (2017) advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with 3+ bedrooms.

5.6.2 As stated, the layout for the site is to be provided at the reserved matters stage, however, owing to the site area the proposed development could provide sufficient private amenity space to meet the requirements of the MDDG (2017). Officers would expect any reserved matters application, should the application be approved, to provide garden space following the pattern of gardens adjacent.

5.6.3 The matters of landscaping would form a subsequent reserved matters application and are not for assessment at this stage.

5.7 Ecology and the impact on European designated sites

5.7.1 Paragraph 170 of the NPPF states that 'Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity'.

5.7.2 Strategic LDP 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.

5.7.3 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. LDP 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.

5.7.4 The application is supported by a Preliminary Ecological Appraisal (PEA) (Liz Lord Ecology, 17 January 2023). This has been reviewed by the Council's Ecological Consultant, who is satisfied that there is sufficient ecological information available for the determination of this application, and that the mitigation measures proposed in the Appraisal should be secured via the imposition of a condition and implemented in full. The Consultant also supports the proposed reasonable biodiversity enhancements to secure net gains for biodiversity. As the appraisal notes that it is likely that that bats could be foraging / commuting, it is advised that a sensitive lighting scheme is developed to minimise any impacts and should be secured by a condition of any consent.

5.7.5 In addition, the application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This means that residential

development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure etc. Natural England (NE) has also reviewed the proposal and raises no objection, subject to securing a financial contribution to mitigate against any potential harm.

- 5.7.6 The development of 5 no. dwellings falls below the scale at which bespoke advice is given from NE. To accord with NE's requirements and strategy advice, an Essex Coast RAMS Habitat Regulation Assessment (HRA) record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance. The findings from HRA Stage 1: Screening Assessment, are listed below:

HRA Stage 1: Screening Assessment

Test 1 – the significance test

Is the development within the Zone of Influence (Zoi) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes, the development is for 5 no. dwellings, and therefore the net increase of dwellings at the site is 5no. dwellings.

Test 2 – The integrity test

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

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

- 5.7.7 As the answer is no, it is advised that, should planning permission be forthcoming, a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the named European sites from recreational disturbance, when considered 'in combination' with other development.

- 5.7.8 The Essex Coastal RAMS has been adopted. This document states that the flat rate for each new dwelling has been calculated at a figure of £156.76 (2022-2023 figure) and thus, the developer contribution should be calculated at this figure. The Council has requested a signed Unilateral Undertaking and subject to the receipt of this, the appropriate mitigation would be secured, in compliance with Policies S1, D1, N1 and N2 of the LDP and the policies and guidance contained in the NPPF (2021).

- 5.7.9 Subject to the imposition of appropriate conditions, it has been found that the appropriate mitigation measures could be put in place to mitigate the likely harm and the proposal is acceptable in this regard.

5.8 Flood Risk and Drainage

- 5.8.1 Policy D5 of the LDP sets out the Council's approach to minimising flood risk. Policy S1 of the same Plan requires that new development is either located away from high-risk flood areas or is safe and flood resilient when it is not possible to avoid such areas. Policy D5 of the LDP also acknowledges that all development must demonstrate how it will maximise opportunities to reduce the causes and impacts of

flooding through appropriate measures such as Sustainable Drainage Systems (SuDS).

5.8.2 The site is located entirely within Flood Zone 1 and presents a low risk of flooding.

5.8.3 The site is not located in a critical drainage area.

5.8.4 The proposal has been reviewed by the Council's Environmental Health Officer, who has stated that should outline planning permission be forthcoming, conditions are to be imposed with regard to surface water and foul drainage.

5.9 Other Material Considerations

5.9.1 The application is supported by a Tree Survey and Constraints Plan (Hayden's Arboricultural Consultants, 27 January 2023). The Survey and Plan has been reviewed by the Council's Arboricultural Consultant who advises that the report identifies the only notable vegetation to be the boundary hedgerow. Any future scheme should look to retain this, and any proposed layout should accommodate suitable space for tree and shrub planting to enhance amenity and for wildlife benefit.

5.9.2 Should planning permission be forthcoming, a condition is to be imposed to manage any future contamination found at the site during the construction phase.

5.10 Sustainability

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

5.10.2 With regard to the three tests of sustainability, in economic terms, there may be some support for local trade as the proposal relates to the construction of 5no. dwellings, however, further information on this has not been provided. Due to the limited provision of local businesses, shops and services there would be a limited increase in footfall in the area. The economic contribution would therefore be nominal.

5.10.3 In terms of the impact on the environment, as stated, the site is considered to be within a relatively sustainable location, which weighs in favour in terms of environmental sustainability. The proposal has been reviewed by the Council's Consultants, who raise no objection in terms of environmental impacts. The proposal is therefore acceptable in this regard.

5.10.4 In social terms, whilst the site is located adjacent to the settlement boundary, it is within close proximity to public transport. Future occupiers will not be heavily reliant on the use of the private car to access everyday facilities. The proposal is able to meet the required space standards and the development would not compromise the wellbeing of future occupants.

5.10.5 Taking into account the above assessment, the proposal has been found to be sustainable. Any potential harm can be mitigated against via the imposition of suitably worded planning conditions and would not outweigh the benefits of the proposed development.

5.11 Planning Balance

5.11.1 The proposed development would be at odds with LDP Policy S8 because it would be located outside of the settlement boundary. However, for reasons already stated, the proposal overall would not be harmful in terms of landscape character or access to services and facilities. Furthermore, development has recently been approved on the site for the very same reasons. The proposal would therefore accord with the underlying aims of the LDP as well as the aims of the NPPF. As a result, the conflict with the development plan carries only limited weight against the proposal in this instance.

5.11.2 Even though the Council can now demonstrate a deliverable 5YHLS, and that the 'tilted balance' does not now apply, this is not a cap on housing development. The proposal would make a modest contribution of five dwellings, boosting supply and choice in an accessible location. Accordingly, significant weight is accorded to these matters. As a result, the minor conflict with the development plan outlined above is outweighed by other material considerations in this case

6. ANY RELEVANT SITE HISTORY

- **22/00734/OUT** – Outline planning permission (with all matters reserved for future determination) for residential development of land for the erection of two dwellings (site area 0.2 Ha), planning permission granted 11th November 2023.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
North Fambridge Parish Council	<p>Recommends refusal –</p> <p>(1) The proposal seeks to enlarge the site approved under 22/00734/OUT. The site is outside of the settlement boundary and this conflicts with Policy S8 of the LDP.</p> <p>(2) Could set a precedent. May encourage further encroachment. Loss of rural land.</p> <p>(3) The 5 year housing land supply figure is to be updated. Rationale in Planning Statement does not reflect current figure.</p> <p>(4) Asymmetric development would encroach on countryside and is out of keeping.</p> <p>(5) Harm to neighbour amenity has not been addressed.</p>	<p>Noted, and addressed at Paragraphs 5.1, 5.3, 5.4 and 5.7 of this report. With regard to the proposal setting a precedent, each planning application is assessed on its individual merits. Notwithstanding, officers view is that the hedge line forms a natural termination for development in the area, and which aligns with new development further to the south</p>

Name of Parish / Town Council	Comment	Officer Response
	(6) The Ecological Appraisal is inadequate.	

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Authority	No objection, subject to the imposition of conditions.	Noted, and discussed at Paragraph 5.5 of this report.
Natural England	No objection, subject to securing appropriate mitigation for recreational pressure impacts on habitat sites (RAMS).	Noted, and discussed at Paragraph 5.7 of this report.
Ecological Consultant	No objection, subject to the imposition of conditions.	Noted, and discussed at Paragraph 5.7 of this report.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Arboricultural Consultant	No objection, subject to the imposition of conditions.	Noted, and discussed at Paragraph 5.9 of this report.
Environmental Health Officer	No objection, subject to the imposition of conditions.	Noted, and discussed at Paragraphs 5.4 and 5.8 of this report.
Strategic Housing	Objection, as proposal does not provide for affordable housing.	Noted, and discussed at Paragraph 5.2 of this report.

7.4 Representations received from Interested Parties

7.4.1 **28no.** 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
Principle of development – Site is outside of the settlement boundary. Site is not sustainable (limited services – doctors, schools, shops, etc.). Train service is unreliable. Reliance on car. Encroachment into the countryside. Lack of infrastructure in village. No economic benefit to development. No employment opportunities in the village.	Noted. Paragraph 5.1 sets out the accessibility of the site and the principle of development. The site is considered to be within walking distance of public transport and occupants would not be wholly reliant on the use of the car. Sustainable modes of transport can provide links to additional services and facilities to support day to day living. It is noted that employment opportunities in the village are limited, but links are provided outside of the settlement to

Objection Comment	Officer Response
	other areas of employment opportunity. Noted. The number of bedrooms has not yet been confirmed, this is to be addressed at the reserved matters stage and can be secured via the imposition of a condition.
Housing mix – smaller units needed, not bigger homes.	Noted. This application is outline in nature and relates to the principle of development only. Further details, including the design of the dwellings, would be submitted at the reserved matters stage should outline planning permission be forthcoming.
Harm to character and appearance of the area. Overdevelopment and impact on health and wellbeing as a result. Overdevelopment as other housing estates nearby.	Noted. As stated, the proposal is outline in nature only and relates to the principle of development. Details of access and layout would be submitted and assessed at the reserved matters stage. The Highways Authority has reviewed the proposal and raises no objection. Parking can be achieved on site, owing to the site area available.
Highways, parking and access – Safe access cannot be provided as it is via an unadopted road. Access at Rectory Road is dangerous. Unadopted road could be damaged during construction. Increase in traffic during and post construction. Highway safety. Inadequate turning space for refuse vehicles. Limited street lighting in village. Pavements on one side of the road.	Noted.
Access to utilities.	Noted. The proposal has been reviewed by the Council's Ecological Consultant and Natural England. Subject to the imposition of conditions and a financial contribution, any harm can be mitigated against and biodiversity enhancement measures achieved.
Impact on biodiversity and geodiversity. Proposal does not achieve a net gain in biodiversity. SSSI is located nearby. Impact on nature reserve. Light pollution.	Noted. The site is in Flood Zone 1 and is not in a Critical Drainage Area. No technical objections have been received in this regard, and further information secured via the imposition of conditions regarding foul and surface water drainage.
Flood risk and drainage - Impact on sewage and drainage. Flood impact on driveways at Stephenson Road.	Noted. The proposal is outline in nature and the impact on neighbour amenity will be assessed at the reserved matters stage. A Construction Management Plan will be required by condition to mitigate the impact of the construction process
Impact on neighbour amenity / environment. Pollution. Noise. Debris / dust.	Noted. This would be addressed at the reserved matters stage.
Waste management.	Noted. The proposal has been found to be acceptable with regard to tree impact.
Impact on trees.	Noted, however, the application site has been assessed on its own merits.
Applications are similar to refused appeal decisions at Rectory Road.	

8. SECTION 106 AGREEMENT

- A Unilateral Undertaking and per dwelling tariff is required to mitigate against the effect of the development on the sensitive interest features of European designated sites. This has been requested from the applicant.

9. PROPOSED CONDITIONS

1. The development shall be carried out in accordance with plans and particulars relating to the appearance, landscaping, layout and scale of the site (hereinafter called “the reserved matters”), for which approval shall be obtained from the Local Planning Authority in accordance with the details as approved.
REASON The application as submitted does not give particulars sufficient for consideration of the reserved matters.
2. Application (s) for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of 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 be begun within two years from the date of the final approval of the reserved matters. 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).
4. The development shall be carried out in accordance with plan reference Location Plan (scale 1:2500) dated 15th December 2022 as far as it relates to the access of the site.
REASON To ensure the development is carried out in accordance with the approved plans.
5. The residential development hereby approved shall be single storey only.
REASON In the interest of local amenity and residential amenity in accordance with Policy D1 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).
6. No more than three bedrooms shall be provided per dwelling.
REASON To meet the identified need for smaller dwellings within the District in accordance with the Maldon District Local Development Plan (2017).
7. No works above ground level shall take place until written details of the proposed materials to be used in the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the materials and details as approved.
REASON In the interest of protecting the character and appearance of the area in accordance with Policy D1 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).
8. The scheme to be submitted pursuant to the reserved matters shall make provision for car parking standards within the site in accordance with the Council’s adopted Vehicle Parking Standards Supplementary Planning Document (2018). 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 the Council’s adopted Vehicle Parking Standards Supplementary Planning Document (2018) and Policy T2 of the Maldon District Local Development Plan (2017).

9. The landscaping details referred to in Condition no.1 shall provide full details and specifications of both hard and soft landscaping works which shall be submitted to and approved in writing by the Local Planning Authority. 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 (fencing and boundaries), car parking layout, vehicle and pedestrian accesses. 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 landscaping works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the Local Planning Authority. The soft landscape works shall be carried out as approved within the first planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant, or any tree planted in its replacement is removed, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.

REASON To ensure the adequate provision of landscaping to mitigate the impact of the development in accordance with Policy D1 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).

10. Prior to the commencement of the development the applicant shall submit in writing a construction management plan to the local planning authority for approval. Within the construction management plan it must consider the following requirements:
The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours and to this effect:
- a) no waste materials should be burnt on the site, instead being removed by licensed waste contractors;
 - b) no dust emissions should leave the boundary of the site;
 - c) consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
 - d) hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.

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

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

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

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

Where there is a requirement to obstruct or alter watercourses a consent under section 23 of the Land Drainage Act must be obtained from Essex County Council. **REASON** In the interest of protecting residential amenity, in accordance with Policies D1, D2 and D5 of the Maldon District Local Development Plan (2017) and guidance contained within the National Planning Policy Framework (2021).

11. No development works above ground level shall occur until a detailed Sustainable Urban Drainage Scheme as specified in the Essex Sustainable Drainage Systems Design Guide has been submitted to and agreed in writing by the local planning authority. This must be conducted by a competent person and include written explanation of any data provided. The scheme shall subsequently be implemented prior to occupation of the development and should include written explanation of any data provided. The scheme shall subsequently be implemented prior to occupation of the development and should include and not be limited to:

Discharge rates / location

Storage volumes

Treatment requirements

Detailed drainage plan

A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Where the surface water drainage strategy proposes the use of soakaways the details of the design and the results of a series of percolation tests carried out upon the subsoil in accordance with DG 365 2016. You are advised that in order to satisfy the soakaway condition, the following details will be required:- details of the area to be drained, infiltration rates (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled.

Where discharging to a watercourse the proposed scheme shall include details of the destination and discharge rates equivalent to "greenfield runoff" up to and including a 1 in 100 year rainfall event inclusive of climate change. This is typically achieved by installing some form of attenuation on site e.g. temporary storage. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s). If the land is designated as a Brownfield Site it should aim to limit run-off for a storm event that has a 100% chance of occurring each year (1 in 1 year event) OR demonstrate 50% betterment of the current rates. The applicant must demonstrate that the system is an appropriate point of discharge for the site. The discharge hierarchy should be used to determine discharge location. This is particularly important when considering greenfield development which may currently discharge to a sewer but may have the capacity to discharge to a watercourse or to the ground. If not, then further information/assessment will be required to determine the suitability of the system to convey the proposed flows and volumes of water. Evidence will be required that the development will not increase risk to others. If the proposed discharge point is outside the development site then the applicant will need to demonstrate that the necessary permissions and or agreements to achieve connection are possible. Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.

Prior to first occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed in writing, by the local planning authority.

REASON To ensure adequate provision is made for surface water drainage in accordance with Policies D1 and D5 of the Maldon District Local Development Plan

- (2017) and guidance contained within the National Planning Policy Framework (2021).
12. No works above ground level shall take place until details of the foul drainage scheme to serve the development has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first occupation of the development.
REASON To ensure adequate provision is made for foul water drainage in accordance with Policies D1 and D5 of the Maldon District Local Development Plan (2017) and guidance contained within the National Planning Policy Framework (2021).
13. 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 the Local Planning Authority for approval in writing. These approved schemes shall be carried out before the development is resumed or continued. Following completion of measures identified in the approved remediation scheme, a verification report demonstrating the effectiveness of the remediation scheme carried out must be submitted to the Local Planning Authority for approval in writing.
REASON To prevent the undue contamination of the site in accordance with Policy D2 of the Maldon District Local Development Plan (2017) and guidance contained within the National Planning Policy Framework (2021).
14. No works related to the alteration of ground levels at the site and no works above ground level shall occur until details of existing ground levels and proposed finished ground levels, and their relationship to the adjoining land, and floor levels, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
REASON In the interests of the impact on the character and appearance of the streetscene and the amenity of neighbouring occupiers, in accordance with Policy D1 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).
15. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Liz Lord Ecology, January 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

- REASON To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy N2 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).
16. Concurrent with reserved matters and prior to any works above slab level, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;

- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

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

REASON To enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy N2 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).

17. Concurrently with reserved matters and prior to occupation, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, x drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

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

REASON To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy N2 of the Maldon District Local Development Plan (2017) and the policies and guidance contained in the National Planning Policy Framework (2021).

18. As only market dwellings are to be provided, the total floor space for the entire development (including any associated outbuildings) shall not exceed 950 square metres in floorspace.

REASON To provide clarity on what is being permitted.

INFORMATIVES

Waste Management

The applicant should consult the Waste and Street Scene Team at Maldon District Council to ensure that adequate and suitable facilities for the storage and collection of domestic waste and recyclables are agreed, and that the site road is constructed to accommodate the size and weight of the Council's collection vehicles.

Highway and Transportation

The requirements above shall be imposed by way of negative planning condition or planning obligation with associated legal framework as appropriate.

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicant should be advised to contact the Development Management Team by email at development.management@essexhighways.org