



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**DISTRICT PLANNING COMMITTEE
23 JANUARY 2024**

Application Number	23/01233/MLA
Location	Land North West Of 2, Maldon Road, Burnham-On-Crouch, Essex
Proposal	Modification to Section 106 Legal Agreement dated 30.08.19 (executed under planning reference 18/00443/OUT) to amend obligations relating to affordable housing
Applicant	Mr Ian Holloway – Burnham Waters Limited
Agent	Mr Stewart Rowe – The Planning and Design Bureau Ltd
Target Decision Date	14.02.2024
Case Officer	Kathryn Mathews
Parish	BURNHAM-ON-CROUCH NORTH
Reason for Referral to the Committee / Council	Not Delegated to Officers

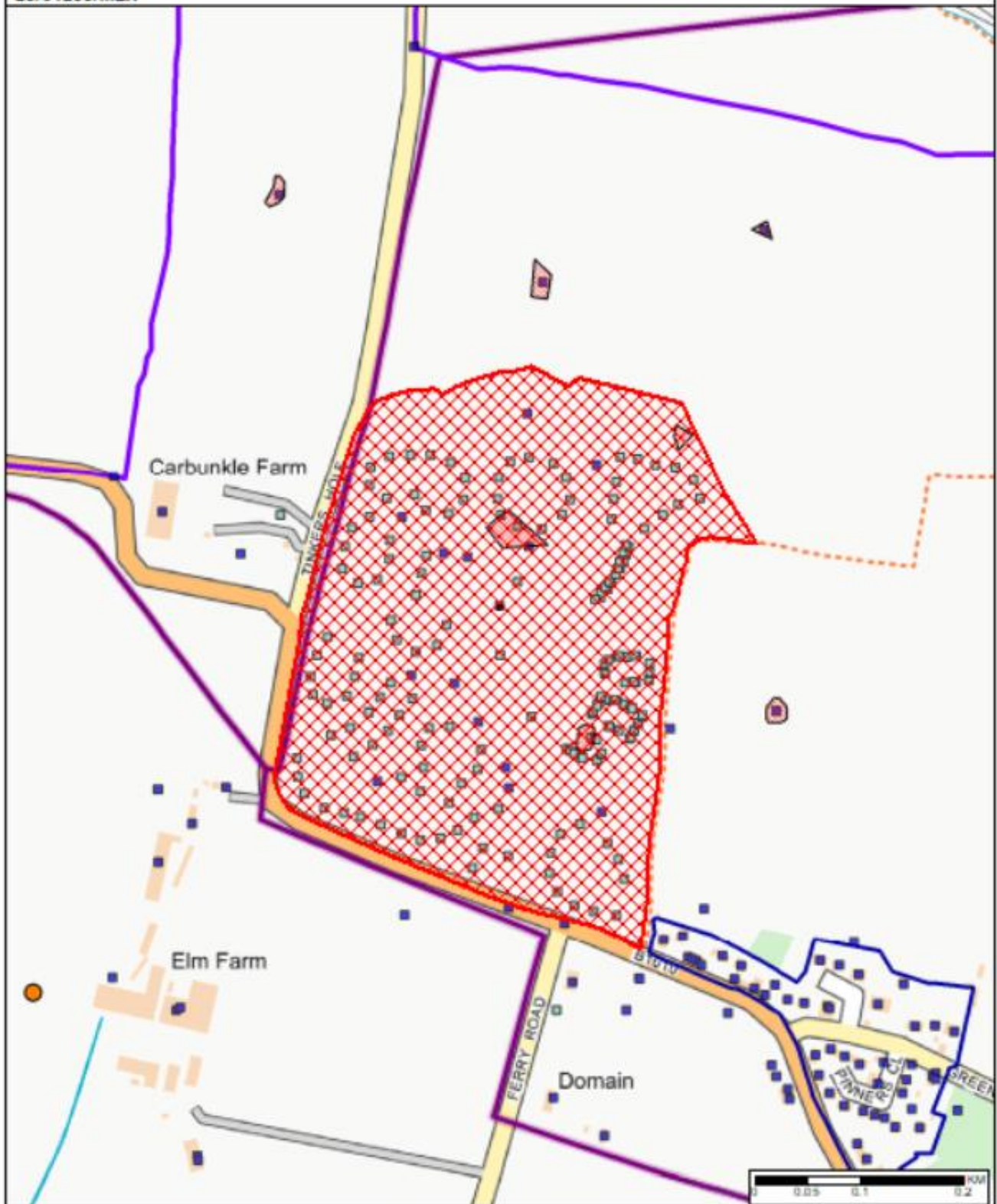
1. **RECOMMENDATION**

AGREE variation of Section 106 (S106) Agreement associated with planning permission 18/00443/OUT as set out in Section 8.

2. **SITE MAP**

Please see below.

Land North West of 2 Maldon Road, Burnham-on-Crouch
23/01233/MLA



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MALDON DISTRICT COUNCIL

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Scale: 1:5,000

Organisation: Maldon District Council

Department: Department

Comments: District Planning Committee

Date: 09/01/2024

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The site is located to the north of Maldon Road, east of Tinkers Hole and west of the Burnham-on-Crouch settlement boundary. The villages of Althorne and Southminster are sited approximately 2 miles to the west and 3 miles to the northeast respectively. The section of Maldon Road that abuts the application site is a 60mph (miles per hour) stretch of public highway, while Tinkers Hole is a minor rural road with less frequent usage.
- 3.1.2 The site the subject of this report forms the first phase of a development known as Burnham Waters which was granted outline planning permission with the matters of access and layout approved (18/00443/OUT) and reserved matters approval for the matters of appearance, landscaping, and scale having also been gained (reference 20/00846/RES). Phase 1 of the retirement community (references 18/00443/OUT and 20/00846/RES) is for the following description of development: *Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole and create associated hard and soft landscaping.*
- 3.1.3 Vehicular access to the site to / from Maldon Road formed part of the approved development. Construction of the development is in progress.
- 3.1.4 The surrounding area to the north, south and west of Phase 1 is predominantly undeveloped, comprising large agricultural fields. However, planning permission exists for two further phases of the Burnham Waters development to the north and east of Phase 1. Burnham Reservoir is to the west, while Elm Farm and Elmwood Equestrian Centre are to the southwest, consisting mainly of agricultural style buildings and two dwellings. To the east of the site are mainly large-scale dwellings, in a linear layout fronting Maldon Road.
- 3.1.5 Alongside current application reference 23/00853/FULM (see previous Agenda item), a variation to the affordable housing obligations which form part of the S106 associated with the existing outline planning permission for Phase 1 (reference 18/00443/OUT) is sought through a Deed of Variation. As the S106 was completed less than five years ago, this would need to be through agreement with the Local Planning Authority (LPA) (if the Agreement was completed more than five years ago, the applicant would have a right of appeal if the LPA did not agree to the variation sought).

3.2 Conclusion

- 3.2.1 It is recommended that the variation to the existing Section 106 Agreement for phase 1 (application reference 18/00443/OUT) proposed, is agreed.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 60-84 Delivering a sufficient supply of homes

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

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- S6 Burnham-on-Crouch Strategic Growth
- H1 Affordable Housing
- H2 Housing Mix
- H3 Accommodation for 'Specialist' Needs

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

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

4.4 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide Supplementary Planning Document (SPD) (2017) (MDDG)
- Maldon District Special Needs Housing SPD (2018)
- Maldon District Affordable Housing and Viability SPD (2019)

5. MAIN CONSIDERATIONS

5.1 The current S106 prevents occupation of any more than 63 (55%) of the market residential units within Phase 1 (which are due to be completed in June 2024) unless the on-site affordable housing required has been provided. If the development is unable to proceed beyond that point, the applicant suggests that this would reduce the Council's Five-Year Housing Land Supply (5YHLS) by 132 units.

5.2 It is claimed that the approved affordable units for Phase 1 are 'undeliverable' as no Registered Provider can be found to take ownership of the 50no. affordable assisted living extra care units approved as part of Phase 1. It is explained that the issues for

the Registered Providers seem to be the relatively high number of units offered and the nature of them (they are effectively sheltered housing with an additional level of care for residents and a concomitant need for appropriately trained staff living close by).

- 5.3 Two possible alternatives are proposed.
- 5.3.1 Option 1: In the event that planning permission is granted for the additional 40no. residential flats for Phase 1 (planning application reference 23/00853/FULM – refer to previous Agenda item), the applicant proposes to meet the 30% affordable housing provision for the Phase 1, as currently approved, through the on-site provision of 8no. of these additional 40no. residential flats and a commuted sum being paid equivalent to the balance of 42no. approved assisted living extra care units (43no. one bedroom and 7no. two bedroom units). The units would also be constructed to NDSS (Nationally Described Space Standards). The on-site affordable housing units would be provided on the basis of them being offered for affordable rent and that the units would be constructed and transferred to a Registered Provider prior to occupation of 55% of the market dwellings for Phase 1. Based on a potential commuted sum of around £5million, the applicant has suggested instalments of £1million prior to the occupation of 50% of the market houses within Phase 1, £2million prior to the occupation of 60% of the market houses within Phase 1 and the balance paid prior to the occupation of 89% of the market houses within Phase 1.
- 5.3.2 Option 2: In the event that planning permission is refused for the additional 40no. residential flats for Phase 1, the total number of residential units in Phase 1 remains unchanged at 166no. and the number of affordable housing units required to comply with the requirement for a minimum of 30% provision (50no. units) remains unchanged, a commuted sum equivalent to the provision of the approved 50no. assisted living units is offered. Based on a potential commuted sum of around £6million, the applicant has suggested instalments of £1million prior to the occupation of 50% of the market houses within Phase 1, £2million prior to the occupation of 60% of the market houses within Phase 1 and the balance paid prior to the occupation of 89% of the market houses within Phase 1.
- 5.3.3 Either option would be secured through a variation of the existing Section 106 Agreement for Phase 1 through a Deed of Modification. There would also need to be consequential amendments to the existing outline planning permission and reserved matters approval for Phase 1 (description and/or conditions imposed; the Travel Plan for Phase 1 would also need to be updated). These would need to be the subject of subsequent applications under Section 96A and/or Section 73 of the Town and Country Planning Act 1990 (as amended). It is also noted that, as part of the planning permission for phase 2 of the Burnham Waters development (reference 21/00075/OUTM), 5no. of the 55no. assisted living units approved as part of Phase 1 were secured as part of the 30% affordable housing contribution required as part of Phase 2. The applicant has advised that there is, currently, no intention to amend the affordable housing provision secured for Phase 2.
- 5.4 In support of the variation sought, a letter from Chelmer Housing Partnership (CHP) dated June 2023 has been submitted which states that they have agreed to deliver 20no. affordable housing units which are proposed as part of current planning application reference 23/00853/FULM (refer to previous Agenda item). They also advise that the homes they currently have in Burnham-on-Crouch are predominately for families and so the homes proposed (that come with an age restriction of 55 and over) will provide their customers with more choice potentially freeing up larger properties more suited for families. However, it is understood that CHP would be unwilling to accept any more than 20no. affordable units on-site as part of Phase 1.

As part of the application, it is stated that CHP has agreed to offer vacant units to residents on Maldon District's housing waiting list, first.

- 5.5 The Housing Development and Allocations Manager has advised that the District's affordable housing needs would be best met through option 1 as that fits within the capacity requirements of the Registered Provider, while also delivering a substantial financial resource to support Affordable Housing across the District. They go on to state that the variation to the S106 proposed would see delivery of much needed affordable, settled housing with interest from a Registered Provider, with discussions now at an advanced stage. They note that the substantial Commuted Sum offers the opportunity for the Council to increase the provision of Affordable Housing across a range of housing types (temporary and/or settled) benefiting the entire District; it gives Members and Officers scope to consider schemes that not only provide standard dwelling types, but also schemes that are geared to specialist accommodation supporting vulnerable groups. It also increases the ability of the Council to consider additional schemes to bring disused properties back into operational use for social housing purposes (Empty Homes / Private Sector Leasing Schemes). However, they comment that the triggers for the payment of commuted sums would need to be agreed.
- 5.6 The Manager has also stated that, if either option was not agreed and a Registered Provider was not secured to take on the 50no. affordable units approved as part of the original Phase 1 (which appears to be the case), Maldon District Council (MDC) would be given the opportunity to acquire the affordable units in accordance with the obligations within the existing S106 Agreement for Phase 1. However, the Housing Development and Allocations Manager advises that the Council would not have the capacity to take ownership and disposal of such a large number of properties nor would it be able to manage the stock directly without operational resource and expertise in Housing Management.
- 5.7 Based on this specialist advice, it is considered that, if the Council resolves to grant planning permission for the development the subject of planning application 23/00853/FULM (refer to previous Agenda item), option 1 is pursued and that a Deed of Modification is completed to secure the necessary variations to the affordable housing obligations within the existing S106 associated with planning permission reference 18/00443/OUT.

6. ANY RELEVANT SITE HISTORY

- **23/01119/NMA** – Application for non-material amendment following grant of planning permission 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole and create associated hard and soft landscaping) Amendment sought: amendment to description of development to remove '70 bedroom two-storey care home building (class C.2)', correct '55 bedroom two-storey assisted living apartment

building' to '55 unit two-storey assisted living apartment building' and remove 'including affordable housing'. Undetermined.

- **23/00853/FULM** – Erect 40No. Flats and Associated Infrastructure, Access Ways, Parking, and Landscaping; Construct Enlarged Detention Basin; and Provide Additional Parking Spaces for Approved Medical Centre - Undetermined
- **22/01139/VARM** - Variation of condition 1 (drawings), condition 3 (boundary treatments), condition 4 (details of soft landscaping), condition 7 (external materials), condition 14 (waste management/refuse points) and condition 18 (external plant/machinery) of reserved matters approval reference 22/00703/VARM (Variation of condition 7 (phasing plan) on reserved matters approval 20/00846/RES (Reserved matters application for the approval of appearance, scale & landscaping on approved planning application 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping))) to accommodate amendment to site access, revised external materials and enclosures for refuse storage and external plant/machinery. Approved 21.04.2023.
- **22/01007/VARM** - Variation of conditions 15 (site access construction), 16, (site access layout), 17 (new footpaths) and 31 (approved drawings) on approved planning permission 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole and create associated hard and soft landscaping) (as amended by 22/00807/NMA) to accommodate amendment to site access. Approved 09.03.2023.
- **22/00887/OUTM** – [Phase 3/completion phase] Outline Application with all Matters of Detail Reserved for Future Determination (Except for Layout and Means of Access to the Site) to Extend Approved Retirement Community to North and East Including Additional Affordable Housing: Erect 203 Dwellings Comprising 143No. One, Two and Three-Bedroom Bungalows, 60No. One, Two, and Three-Bedroom Apartments in Two-Storey Buildings. Lay Out Estate Roads, Footpaths, Vehicle Parking and Surface Water Drainage Infrastructure Including Swales and Detention Basins. Form Public Open Spaces Including Greenway, Orchards and Allotments and Lay out Hard and Soft Landscaping – Approved.

- 22/00703/VARM** - Variation of condition 7 (phasing plan) on reserved matters approval 20/00846/RES (Reserved matters application for the approval of appearance, scale & landscaping on approved planning application 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole and create associated hard and soft landscaping)). Approved 15.09.2022.
- 22/00628/FUL** - Erect Show Home and Sales and Marketing Suite, Form Car Park, and Lay Out Associated Hard and Soft Landscaping in Connection with Adjacent Burnham Waters Retirement Community Development OUT/MAL/18/00443 and RES/MAL/20/00846 for a Temporary Period of one year. Undetermined.
- 22/05050/DET** – Compliance with conditions notification 20/00846/RES (Reserved matters application for the approval of appearance, scale & landscaping on approved planning application 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping)) Condition 8 - Samples of materials. Approved 02.12.2022.
- 22/00628/FUL** - Erect Show Home and Sales and Marketing Suite, Form Car Park, and Lay Out Associated Hard and Soft Landscaping in Connection with Adjacent Burnham Waters Retirement Community Development OUT/MAL/18/00443 and RES/MAL/20/00846 for a Temporary Period of one year. Refused 12.10.2022.
- 22/05020/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and

Tinkers Hole, and create associated hard and soft landscaping). Condition 3 - Landscaping (Hedge Retention). Approved 24.04.2023.

- **22/05040/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 21 - Archaeological assessment. Approved 07.02.2023.
- **22/05050/DET** - Compliance with conditions notification 20/00846/RES (Reserved matters application for the approval of appearance, scale & landscaping on approved planning application 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 8 - Samples of materials. Approved 02.12.2022.
- **21/05003/DET** – Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 24 - Broadband strategy. Approved 03.03.2021.
- **21/05037/DET** - Compliance with conditions notification 20/00846/RES (Reserved matters application for the approval of appearance, scale & landscaping on approved planning application 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and

construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping)) Condition 7 - Detailed phasing plan. Condition 8 - Samples of external finishing materials. Approved 08.11.2022.

- **21/05060/DET** - Compliance with conditions notification 20/00846/RES (Reserved matters application for the approval of appearance, scale & landscaping on approved planning application 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping)) Condition 20 - Root deflectors. Condition 21 - Solar panels. Pending consideration.
- **21/05064/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 12 - Surface water drainage. Condition 13 - Foul drainage. Pending consideration.
- **21/05077/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 22 - External lighting strategy. Approved 06.07.2021.
- **21/05102/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-

bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 14 - Construction method statement. Approved 12.08.2021.

- **21/00075/OUTM** – [Phase 2] Outline application with all matters of detail reserved for future determination (except for layout and means of access to the site) to extend approved retirement community to north and east including affordable housing: erect 132No. one, two and three-bedroom bungalows, 100No. one, two, and three-bedroom apartments in two-storey buildings, and erect single-storey ancillary multi-use community building. Lay out estate roads, footpaths, vehicle parking and surface water drainage infrastructure including swales and detention basins. Form open spaces and allotments and lay out hard and soft landscaping. Allowed on appeal. Full costs awarded against the Local Planning Authority.
- **20/00387/RES** - Reserved matters application for the approval of appearance, landscaping and scale on approved planning application OUT/MAL/18/00443 (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) – Refused 10.06.2020.
- **20/05094/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping. Condition 14 - Construction Method Statement. Condition 25 - Ecological enhancements. Condition 26 - Ecological mitigation scheme. Condition 27 - Non-licenced method statements for Amphibians and Reptiles. Approved 15.10.2020.
- **20/05101/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-

bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping) Condition 8 - Risk assessment. Approved 19.10.2020.

- **20/05103/DET** - Compliance with conditions notification 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole and create associated hard and soft landscaping) Condition 20 - Arboricultural method statement. Approved 19.11.2020.
- **20/00846/RES** - Reserved matters application for the approval of appearance, scale & landscaping on approved planning application 18/00443/OUT (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole, and create associated hard and soft landscaping). Approved 14.10.2020.
- **19/01203/ADV** - Erect non-Illuminated advertisement hoarding not exceeding 23 metres in length. Approved 13.01.2020.
- **19/05192/DET** - Compliance with conditions notification OUT/MAL/18/00443 (Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and

Tinkers Hole, and create associated hard and soft landscaping) Condition 21 - Written scheme of investigation of archaeology - Conditions cleared 23.01.2020.

- **18/00443/OUT** – Create retirement community consisting of 103No. one, two and three-bedroom bungalows (class C.3), 70 bedroom two-storey care home building (class C.2) and 55 bedroom two-storey assisted living apartment building (class C.3) including affordable housing. Erect ancillary community centre, 8No. shops (class A.1) with 8No. key workers apartments over in two-storey building, two-storey medical centre (GP, dental, optician, and dispensing chemist), and construct single-storey office and Maintenance Buildings. Lay Out Amenity and Sports Facilities Including Outdoor Swimming Pool, tennis courts, allotments and open spaces. Lay out estate roads, footpaths and surface water drainage infrastructure including swales and detention Basin. Form vehicular and pedestrian accesses onto B1010 Maldon Road and Tinkers Hole and create associated hard and soft landscaping. Approved 13.09.2019 (subject to a Section 106 Agreement).

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Burnham-on-Crouch Town Council	No response at the time of writing report.	

7.2 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Legal Services	There is no right to request a modification of a planning agreement in this case because the five-year threshold has not yet been reached. However, S106 A of the 1990 Act states that the council by agreement can amend an existing planning agreement. In exercising this discretion, the council must act reasonably. This means that it should give proper consideration to the request and only decline to amend the planning agreement if there are reasonable reasons for doing so. My understanding is that the original planning agreement has a requirement to provide special care units. No social landlord is interested in purchasing these. Apparently, the economic situation has changed the ability of social landlords to purchase units of this nature. The developer has	Noted.

Name of Internal Consultee	Comment	Officer Response
	therefore in my view reasonably come forward with a proposal to change the manner of affordable housing provision. If the council decides to refuse the application to amend the agreement there must be good reasons put forward. If those reasons are not reasonable then a judicial review in the High Court can be commenced against the council.	
Senior Specialist Coordinator – Housing	<p>Recommend the acceptance of the applicant's request to vary the existing S106 for Phase 1.</p> <p>The Developer held discussions with two established Registered Providers, who showed a particularly strong interest regarding the Extra Care Housing provision prior to the Planning Application being agreed. As such, Maldon District Council were able to consider delivering the scheme without Essex County Council Support and thus retaining 100% nomination rights for local residents. By early 2023 a lack of interest became apparent. As a result of negotiations, a Registered Provider has now made an offer, seeking to acquire the affordable units within Phase 1, based on a lesser number of units on site and minimal applicable conditions.</p>	Noted.

7.3 Representations received from Interested Parties

7.3.1 No letters of representation had been received at the time of writing this report.

8. AMENDED HEADS OF TERMS FOR AFFORDABLE HOUSING OBLIGATION FOR DEED OF VARIATION TO SECTION 106 AGREEMENT

AGREE variation of affordable housing obligations within the existing Section 106 Agreement associated with planning permission reference **18/00443/OUT** for Phase 1 to allow the substitution of the approved 50no. assisted living extra care, on-site residential units with 8no. on-site units proposed as part of application reference 23/00853/FULM (Block A) and a commuted sum for the equivalent off-site provision of the balance of 42no. assisted living extra care affordable units OR substitution of the approved 50no. assisted living extra care, on-site residential units with 20no. on-site units proposed as part of application reference 23/00853/FULM (Block A) and a commuted sum for the equivalent off-site provision of the balance of 30no. assisted living extra care affordable units.