

**REPORT of  
ASSISTANT DIRECTOR: PLANNING AND IMPLEMENTATION**

to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
13 NOVEMBER 2024**

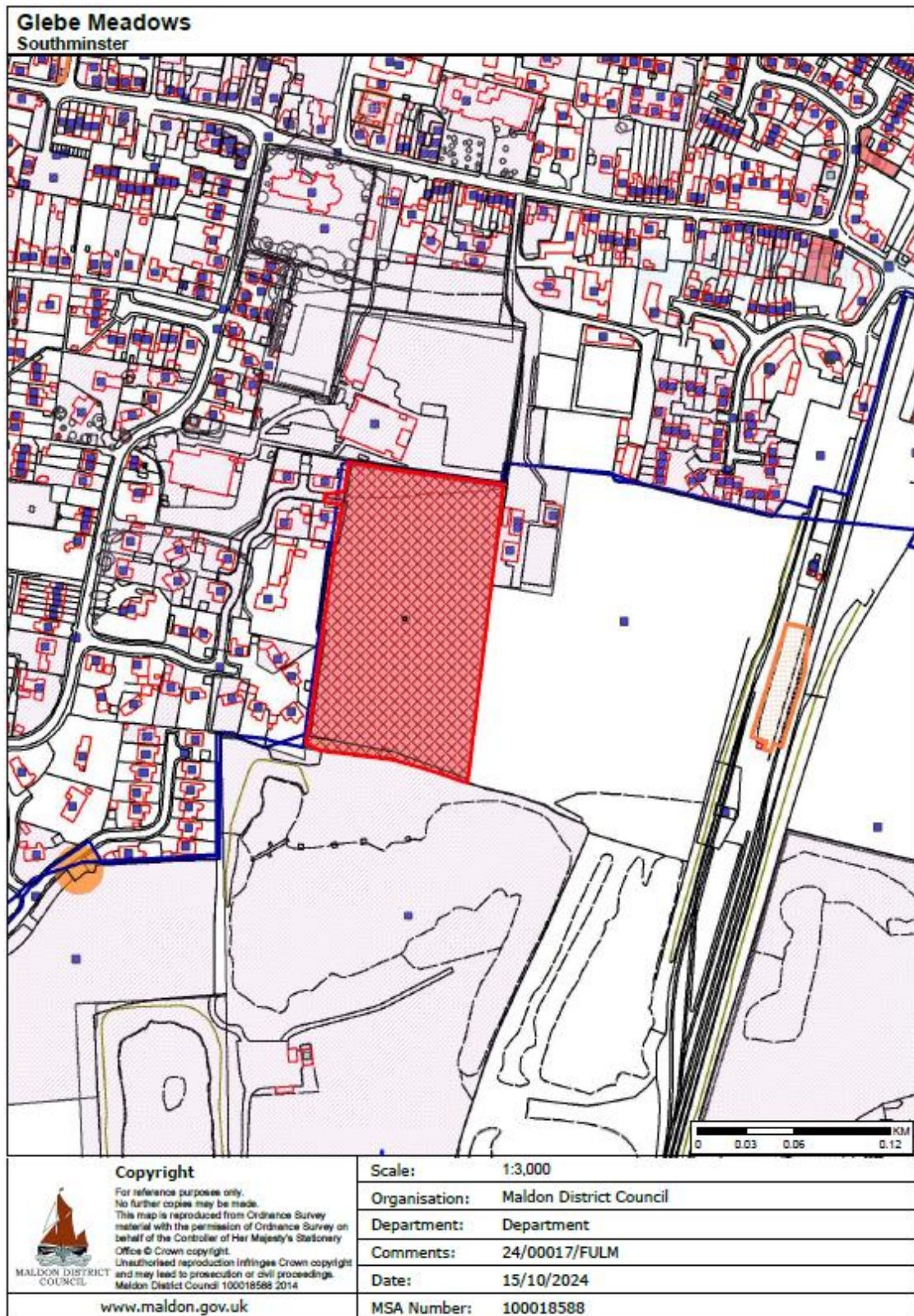
<b>Application Number</b>	<b>24/00017/FULM</b>
<b>Location</b>	Glebe Meadow Adjacent King Georges Field, Station Road, Southminster, Essex
<b>Proposal</b>	Application for planning permission to create 36 no. one, two, three and four bedroom houses and maisonettes, associated landscaping, roads, parking and drainage infrastructure, plus a new area of public open space and the addition of a footway to the east side of Vicarage Court.
<b>Applicant</b>	Benferri Developments Limited
<b>Agent</b>	JCN Design & Planning
<b>Target Decision Date</b>	29.11.24 (EoT)
<b>Case Officer</b>	Lisa Page
<b>Parish</b>	<b>SOUTHMINSTER</b>
<b>Reason for Referral to the Committee / Council</b>	Major Application Call in Councillor A S Fluker – Policy D1

**1. RECOMMENDATION**

**APPROVE** planning permission 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 planning obligations and subject to the conditions as detailed in Section 8 of this report.

**2. SITE MAP**

Please see below.



### 3. SUMMARY

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

##### Site description

- 3.1.1 The application site extends to 1.4 hectares and is located within a relatively central position within Southminster, to the South of the B1018 (Station Road). To the North of the site is the public swimming pool (and playing fields which appear utilised by the school); to the east lies Southminster United Football Club with storage outbuildings and sports pitches; to the South is an area of woodland, beyond which are lakes associated with Oak Lakes Fisheries; whilst to the West is existing residential development of Vicarage Meadow and Vicarage Court.
- 3.1.2 The site is currently an unused field, comprising rough grassland with mature trees on the eastern and southern boundaries, with an established hedgerow along the northern boundary. The site is otherwise devoid of established landscape features. The land slopes gently down to the south-eastern corner.
- 3.1.3 The site lies outside of the Conservation Area and is within Flood Zone 1 as identified in the Environment Agency's (EA's) Flood Map and therefore has a low probability of flooding from rivers and the sea.

##### Description of proposal

- 3.1.4 The application seeks full planning permission for 36no. 2 storey dwellings, together with access roads, parking, drainage infrastructure, a new area of public open space and associated landscaping.
- 3.1.5 The development would provide 25no. market and 11no. affordable housing units, with the following mix: -

##### Market housing

4 x 2-bed dwellings  
7 x 3-bed dwellings  
14 x 4-bed dwellings

##### Affordable housing

4 x 1-bed dwellings  
2 x 2-bed dwellings  
4 x 3-bed dwellings  
1 x 4-bed dwellings

- 3.1.6 The layout includes the provision of 0.4ha of public open space to the south of the site together with a sustainable urban drainage system at the lowest point of the site.
- 3.1.7 A singular vehicular access point would be via Vicarage Court, entering the site within to its north-western corner. Across the site 87 allocated car parking spaces are proposed (including on-plot garaging provision) with an additional 9 visitor parking spaces. Electric Vehicle (EV) charging points are proposed to be provided to all dwellings. Secure cycle storage for all dwellings is proposed within either garages or sheds. A pedestrian footpath is proposed from the entrance to the site through Vicarage Court joining onto the existing footpath network.

## 3.2 Conclusion

- 3.2.1 The site lies outside of the settlement boundary for Southminster and thus the proposed development would be contrary to the Development Plan. However, a material consideration in this instance relates to the former planning permissions at the site (Planning permission was granted for 13 dwellings under application 16/00105/OUT on appeal dated 14<sup>th</sup> June 2017 following an Officer overturn at the Southeast Area Planning Committee of the 16<sup>th</sup> July 2016 and 20/00102/RES). Those applications have expired, however, established conventions is that previous applications are a material consideration in respect of the determination of subsequent applications on the same site of a similar kind. It is also noted that the application was refused due to the quantum of development proposed and impact on the countryside. The appeal decision noted that there was agreement that the principle of developing the site was acceptable. Within the outline planning application, it was determined that although the site was outside of the defined settlement boundary, it was adjacent to the boundary and would help to maintain sustainable rural communities, with the proximity of the site being within walking distance of local services and facilities as well as alternative modes of transport, concluding that the site was in a sustainable location. This appeal was allowed at a time when the LPA could demonstrate 5 Year Housing Land Supply (5YHLS). Within this current application, appropriate weight needs to be applied to this earlier position within the 'planning balance'.
- 3.2.2 The application would deliver 36no. dwellings in a highly sustainable location within Southminster. Although the market housing (25 units) would provide an over delivery of 4 bed market dwellings, the conflict with the Local Housing Needs Assessment (LHNA) is not a reason to refuse planning permission (but rather is a matter which lessens the positive weight to housing delivery in the planning balance). However, the application would deliver 11 affordable units, including an over delivery of larger rented dwellings, which would greatly assist the current demand of larger families on the Housing Register. All the dwellings would comply with Nationally Described Space Standards (NDSS).
- 3.2.3 The layout of development would follow the grain of existing developments to the west, and the detailed design of dwellings would also follow the same approach with the use of projecting front gables, bay windows, stone cills, chimneys, and a complementary palette of materials. Street trees would be incorporated, in addition to wider landscaping proposals, and the open space would be well located to the south of the site to maintain a soft new edge to the village. Overall, the layout and design of the proposal would create a high-quality development.
- 3.2.4 The development would provide high quality amenity for future occupiers and all the dwellings adhere to the NDDS. Externally, private amenity space is provided in accordance with the Adopted Maldon District Design Guide (MDDG), and the open space provision is considered acceptable.
- 3.2.5 There would be no unacceptable impact to neighbouring amenity.
- 3.2.6 In terms of highways matters, there is capacity within the surrounding network to serve the development and there would be no adverse impact upon local highway safety. The Highways Authority has no objections from a highway and transportation perspective, subject to conditions, including the provision an off-site footpath within Vicarage Court. Adequate vehicle and cycle parking would be provided for the development.

- 3.2.7 Matters in relation to landscape and ecology are satisfactory, and the development would deliver significant on-site Biodiversity Net Gain (BNG) which would be secured for 30 years. In addition, the development would be acceptable in terms of flood risk and drainage.
- 3.2.8 Having considered the benefits that would arise from the proposal and weighed this against the harm, it is considered that the significant benefits of the development would outweigh any harm. These benefits would amount to material considerations that would indicate that planning permission could be granted not in accordance with the Development Plan, and thus, it is recommended that planning permission be granted subject to the imposition of conditions and all interested parties first entering into a S106 Agreement to secure the necessary obligations, as set out.

#### **4. MAIN RELEVANT POLICIES**

##### **4.1 National Planning Policy Framework (2023) including paragraphs:**

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 54-58 Planning Conditions and Obligations
- 60-80 Delivering a sufficient supply of homes
- 85-89 Building a strong, competitive economy
- 108-117 Promoting sustainable transport
- 123-127 Making effective use of land
- 128-130 Achieving appropriate densities
- 131-141 Achieving well-designed places
- 157-175 Meeting the challenge of climate change, flooding, and coastal change
- 180-194 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, Geodiversity and Biodiversity
- T2 Accessibility
- I1 Infrastructure and Services

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

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

- Maldon District Affordable Housing and Viability SPD (2019)
- Essex coast recreation Disturbance Avoidance Mitigation Strategy (RAMS) SPD (2019)

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

4.4.1 A draft list of Heads of Terms for a Section 106 Agreement includes the following:

- 30% affordable housing (11no. dwellings)
- NHS (National Health Service) of £17,500.00
- Education:
  - Early Years and Childcare – £62,390.00
  - Primary - £209,790.00
  - Secondary - £192,362.00
  - A School Transport – £42,818.40
- Libraries £2800.80
- Essex County Council (ECC) monitoring fee £700 per ECC obligation
- Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) tariff at £163.86 per dwelling
- District Council monitoring fees

### 5. **MAIN CONSIDERATIONS**

#### 5.1 **Principle of Development**

##### National Planning Policy Framework (NPPF)

- 5.1.1 As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).
- 5.1.2 Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, Paragraph 38 of the NPPF prescribes that LPAs should approach decisions on proposed development in a positive and creative way and that decision makers at every level should seek to approve applications for sustainable development where possible.
- 5.1.3 Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, Paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 5.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with

permission is developed without unnecessary delay. Paragraph 76 of the NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth (plus the relevant buffer) of housing for decision making purposes where the relevant application was made prior to the publication of the December 2023 version of the NPPF.

- 5.1.5 In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5YHLS. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan.

#### Five Year Housing Land Supply

- 5.1.6 On 28 May 2024, the Council confirmed, through approval of its officers' report and supporting evidence, that it can demonstrate a supply of specific, deliverable sites sufficient to provide for 6.3 years' worth of housing against the Council's identified housing requirements. The published figure for the year 2023 / 24 was 6.35. However, it should be noted that this is not a ceiling to development as the Council is required to approve housing development in a sustainable manner, having regard to the government's drive to meet housing demand, where any identified harm caused by a development is outweighed by the benefits of the scheme and any other material considerations. In addition, maintaining a balance of delivery of housing on the ground, and approval of new permissions, is necessary for the LPAs to demonstrate that it is being consistent with national policy.

#### The Development Plan

- 5.1.7 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA 1990), and paragraph 47 of the NPPF require that planning decisions are to be made in accordance with the Development Plan unless material considerations indicate otherwise. In this case the Development Plan comprises of the approved Maldon District Local Development Plan (LDP).
- 5.1.8 Policies S1 and S2 of the LDP seek to promote sustainable development and detail that strategic growth will be focused on the District's main settlement, but with a proportion of new development directed to the rural villages to support housing needs, local services and facilities and the rural economy.
- 5.1.9 Policy S8 relates to settlement boundaries and the countryside and sets out that sustainable development within the defined boundaries will be supported. Southminster is defined as a 'larger village' which is a settlement with a 'limited range of services and opportunities for employment, retail and education, and which serve a limited local catchment and contain a lower level of access to public transport'. Outside of the settlement boundaries planning permission will only be granted for certain development, which does not include the development type proposed.
- 5.1.10 As the site is located outside of the defined settlement boundary, it would be contrary to Policy S8 and thus would be contrary to the Development Plan.
- 5.1.11 However, a material consideration in this instance relates to the former planning permissions at the site (Planning permission was granted for 13 dwellings under application 16/00105/OUT (on appeal) and 20/00102/RES). Although permission is

not extant at the site, the position established by the appeal decision in the 2016 application is a material consideration. Within the outline planning application (all matters reserved except access), Officers determined that although the site was outside of the defined settlement boundary, it was adjacent to the boundary and would help to maintain sustainable rural communities, and noted the proximity of the site within walking distance of local services and facilities as well as alternative modes of transport, concluding that the site was in a sustainable location. The Inspector took this position in his consideration. The decision was taken at a time when the LPA could demonstrate 5YHLS. Within this current application, appropriate weight needs to be applied to this earlier position within the ‘planning balance’.

5.2 **Housing Need and Affordable Housing**

5.2.1 The NPPF is clear that housing should be provided to meet an identified need and the LHNA 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 LHNA is wholly compliant with the latest NPPF and NPPG and provides the Council with a clear understanding of the local housing need in the District and demographic implications of this, the need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build housing.

5.2.2 Policy H2 of the approved LDP states that “all developments will be expected to provide a suitable mix and range of housing in terms of size, type and tenure to reflect local housing need and demand”. The Council therefore seeks to deliver a range of homes in terms of sizes that will contribute to the creation of mixed, inclusive and sustainable communities. It will be important to ensure the District’s housing stock provides for a wide range of housing needs and offers choice.

5.2.3 As set out above, the development would deliver a total of 36no. dwellings (with 25no. as market dwellings and 11no. as affordable) providing 4 x 1 bed, 6 x 2 bed, 11 x 3 bed, and 15 x 4 bed). In terms of the market dwellings, the provision and compliance with the LHNA is set out in the table below: -

	1 bed	2 bed	3 bed	4 bed +
<b>MARKET – LHNA figure</b>	Up to 10%	25-35%	40-50%	15-25%
<b>Number provided and %</b>		4 (16%)	7 (28%)	14 (56%)

5.2.4 The development would therefore provide an over delivery of 4 bed market dwellings, with an under-provision of 1, 2 and 3 bed units. The applicant’s rationale is that this mix would better relate to the lower density end of Southminster and smaller properties would be out of keeping with the character of the area. Officers do note that the character of built form within the locality and primarily in Vicarage Meadows and Vicarage Court to which this development site would appear an extension of, is of larger dwellings. However, the development does include smaller affordable units which are well designed into the scheme without undue harm to the density or character of the development. Whilst this conflict with the LHNA is not a reason to refuse planning permission, it is a matter which lessens the positive weight to housing delivery in the planning balance.

5.2.5 Turning to affordable housing, Policy H1 of the approved LDP requires 30% Affordable Housing requirement. The Maldon District Affordable Housing and Viability SPD (2019) provides more guidance about the Council's approach to affordable housing provision. The SPD provides additional information about the way approved

LDP policies H1, H2 and H5 will work. Whilst the SPD sets out the preferred tenure mix as 70% Affordable Rent and 30% Intermediate Housing, the LHNA identified a tenure mix of 75% Rented and 25% Intermediate Affordable Housing, and this is what the LPA now seek to deliver.

- 5.2.6 The application proposes 11 of the 36 dwellings as affordable (30.55%) and thus the total amount of affordable housing proposed is acceptable and aligns with Policy H1 of the LDP. Turning to tenure mix, the LHNA identified a tenure mix of 75% Rented and 25% Intermediate Affordable Housing. The development meets with this tenure mix with the breakdown of sizes of the affordable units as follows –

Rented / Intermediate (73%)

- 4 x 1bed
- 3 x 3bed
- 1 x 4 bed

Shared Ownership (27%)

- 2 x 2bed
- 1 x 3bed

- 5.2.7 In terms of the affordable dwellings, the provision and compliance with the LHNA is set out in the table below: -

	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>4 bed +</b>
<b><u>RENTED</u> – LHNA figure</b>	30-40%	30-40%	20-30%	Up to 10%
<b>Number provided and %</b>	4 (50%)		3 (37.5)	1 (12.5)
<b><u>SHARED OWNERSHIP</u> – LHNA figure</b>	15-25%	35-45%	25-35%	5-12%
<b>Number provided and %</b>		2 (66.6%)	1 (33.3%)	

- 5.2.8 The Councils Strategic Housing Services have reviewed the application and fully support this mix. Whilst the provision over delivers on the larger rented dwellings, this is supported as it would greatly assist the current demand of larger families on the Housing Register (the last 3 bed house advertised in June 2024 in Burnham-On-Crouch had a total of 67 families apply, and for 4 bed rented units, there are currently 15 families on the Register). The breakdown of shared ownership is skewed due to their only being 3 units. All the dwellings would comply with Nationally Described Space Standards (NDSS), with the 3 bed 5 person houses and the 4 bed 7 person house far exceeding the standard.

- 5.2.9 Accordingly, the provision of affordable housing is fully supported and consistent with Policy and H2 of the LDP. In addition, the location of the affordable housing at the site is supported and which would appear tenure blind.

**5.3 Access to Services and Facilities**

- 5.3.1 The site is located within a relatively central position within Southminster, to the South of the B1018 (Station Road). The distance to facilities within Southminster, measured as a walking route via Vicarage Court are as follows: -

<b>Destination</b>	<b>Distance (Miles)</b>
Primary School	0.26
Shops (Nisa), Public Houses	0.40
Medical Centre (William Fisher)	0.45

Destination	Distance (Miles)
Church	0.35
Swimming Pool	0.32
Railway Station	0.66
Bus Stops	0.15

5.3.2 Future occupiers of the site could readily access the services and facilities within Southminster which would meet with some day-to-day needs. However, it is acknowledged that there would be a need to travel further afield for other education, employment, leisure and shopping opportunities.

5.3.3 The site is in walking distance to the railway station and bus stops which would enable occupiers to access these services by means of travel other than the private vehicle. There is a bus every 30 minutes between Chelmsford and Southminster Monday to Saturday, and a bus every 45mins accessing Southminster-Tillingham-Bradwell on Monday to Friday, with a 2 hourly service on Saturdays. The train station offers various services to locations including Wickford, Shenfield, and London Liverpool Street. On this basis, the site is considered to score highly in terms of locational sustainability.

#### 5.4 **Layout, design and impact on the character and appearance of the area**

5.4.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.

5.4.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF, at paragraph 131, states that:

*“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.*

5.4.3 Paragraph 139 states that:

*“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.*

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

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- b) Height, size, scale, form, massing and proportion;
- c) Landscape setting, townscape setting and skylines;
- d) Layout, orientation, and density;

- e) Historic environment particularly in relation to designated and non-designated heritage assets;
- f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
- g) Energy and resource efficiency.

- 5.4.5 LDP Policy H4, with respect to density, states that all development will be design-led and will seek to optimise the use of land having regard to a list of considerations including the location and setting of the site (1), the existing character and density of the surrounding area (2) and the impacts upon the amenities of neighbouring properties (7). Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG.
- 5.4.6 Whilst the development would provide 36 dwellings (an increase over the previous permission for 13 dwellings), this would align with the desires of the NPPF to promote an effective use of land in meeting the need for homes and other uses (while safeguarding and improving the environment and ensuring safe and healthy living conditions). The layout of development in terms of road alignment and the grain of development generally follows the approach to the existing development to the west within Vicarage Court.
- 5.4.7 Access into the site is via the north-western corner presented as a short section of avenue, following the siting and building line of No. 5 and No. 6 Vicarage Court to create a new 'street scene'. Although this area is of higher density, it would not appear harmful and the street trees, set in a grass verge on the north side of the street, would assist in softening and opening up the development, whilst also contributing to the requirement of tree lined street required by the NPPF.
- 5.4.8 A junction in the centre of the site splits the roads to head to the eastern and southern boundaries, with the former laid out as a courtyard (with a higher density containing the terrace row and which thus forms a different character area), with the latter reflecting the character of Vicarage Court as a sweeping shared surface road enclosed to both sides by detached houses.
- 5.4.9 In design terms, the development would be 2 storey in scale would also reflect that already built within the locality and thus would be in keeping. In addition, the approach to the detailed design reflects the locality (with the use of projecting front gables, bay windows, stone cills and chimneys), and the choice of materials (the palette includes red and buff brick, render with terracotta and brown, and slate style roof tiles) would result in a high-quality development and assist in unifying this parcel of development with the existing residential development to the west.
- 5.4.10 The layout would ensure active frontages are maintained along the highway and public open space to ensure natural surveillance is achieved. Whilst a high number of the dwellings facing out onto the open space, on the limited occasions where side or rear gardens adjoin public open space, brick wall boundary treatments are proposed. This is a further factor which contributes to a high-quality development.
- 5.4.11 In terms of the proposed public open space, Paragraph 102 of the NPPF identifies that access to a network of high-quality open spaces is important for the health and well-being of communities. Alongside this, Paragraph 135, addressing the achievement of well-designed places, sets out that development proposals should demonstrate a 'high standard of amenity for existing and future users.' In addition, policies S6, D1, N1 and N3 of the Local Development Plan seek provision and improvements of open space.

- 5.4.12 The layout of open space has been integrated into the design of the proposals with a small area at the entrance to the site and the rest provided to the southern edge (0.40ha) adjoining the existing landscaping that creates the setting of the site, and which provides an informal area for recreation and social interaction primarily for future residents. The open space would contain the underground water attenuation consisting of a basin of just over one metre deep with shallow sides, meaning that it can be used as part of the public realm and does not need to be fenced (it will only contain water during the critical 1 in 100 year storm event - including a 40% allowance for climate change). As set out within the Green Infrastructure Strategy Plan, the open space would be laid out with grass, wildflower grassland, native hedge planting and trees. Additionally, and as noted above street trees are proposed, which adds positively to the character and quality of the urban environment (as well as assisting to mitigate and adapt to climate change) in compliance with Paragraph 136 of the NPPF. Overall, Officers are content that the level and quality of open space would be adequate to serve the development, and that the approach to landscaping would be appropriate and contribute to creating a high quality development.
- 5.4.13 To assist in the consideration of impacts upon the wider landscape and on visual amenity, the application has been submitted with a Landscape and Visual Impact Assessment (LVIA) to demonstrate how the proposed scheme would complement the landscape character and setting of the application site. This is a key consideration as the site would form a new edge to the south of the village.
- 5.4.14 In terms of landscape and visual effects, the character of the site would inevitably alter as a direct result of the proposed development. However, the site itself is relatively contained by mature trees and shrub boundary vegetation. The majority of the residual landscape effects are considered to be 'Negligible'. The surrounding gently undulating topography, existing vegetation and areas of existing settlement of Southminster establishes a 'Visual Envelope', which is curtailed to the near distance, with some longer distance views occasionally glimpsed. However, such effects would be mitigated by the design of the development in terms of the area to be developed with built form, the siting of open space, and the proposed (although it will take time for new planting to become established). The greatest level of visual effects will be experienced by those receptors within the near distance, restricted to residents within Vicarage Court to the west of the site whose outlook would permanently alter, and this is addressed later within the report when assessing impact upon neighbouring amenity.

## 5.5 Impact on Future Occupiers Amenity

- 5.5.1 In terms of private amenity provision for future occupiers, all dwellings would be provided with private gardens to meet with the standards set out in the adopted MDDG SPD (namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for 1–2-bedroom dwellings and 25m<sup>2</sup> for flats).
- 5.5.2 In addition, all properties would be served by windows which would provide adequate light and outlook to all habitable rooms, and internally all dwellings would meet the Nationally Described Space Standards. The layout also ensures that the proposed dwellings would have an acceptable relationship with each other, with back to back distances of 25 metres.
- 5.5.3 The development would also deliver sufficient and usable public amenity space, with 0.40 hectares of open space being provided to the southern edge. This would be an informal area for recreation and social interaction primarily for future residents, and

would be laid out with grass, wildflower grassland, native hedge planting and trees. The level and quality of open space would be adequate to serve the development.

- 5.5.4 On this basis, it is considered that a good quality of life for the occupiers of the proposed residential units would be provided.

## 5.6 Impact on Neighbouring Residential Amenity

- 5.6.1 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). Policy H4 seeks to ensure development proposals have regard to the impacts upon the amenities of neighbouring properties.

- 5.6.2 The development has the potential to impact upon residential dwellings to the west within Vicarage Court, and this impact would be during the construction period and thereafter once the development is complete and occupied. In terms of impacts during construction, a condition is recommended requiring the submission of a Construction Management Plan (CMP) to ensure construction impacts are mitigated and/or minimised. The CMP would include details of safe access in / out of the site, parking of vehicles of site operatives and visitors, loading and unloading of plant and materials, storage of plant and materials, storage of top soil, wheel and underbody washing facilities, construction signage and traffic management, measures to control the emission of dust, dirt and mud during construction, hours of working, and a scheme to control noise and vibration during the construction phase, including details of any piling operations. This would ensure that impacts to neighbours during the construction period are not unacceptable.

- 5.6.3 The layout of the development ensures compliance with the Maldon Design Guide in terms of back-to-back distances which require a minimum of 25 metre where habitable windows face each other with existing neighbours. The dwellings would be over 40 metres from the back façade of The Old Rectory to the western boundary, and the same distance to the rear elevations of dwellings in Vicarage Meadows. The outlook from neighbours to the west would alter, but due to the scale of the dwellings, and compliance with the minimum back-to-back distances, the development would not appear unduly prominent or harmful to outlook, loss of light or have an overbearing impact.

- 5.6.4 Overall, it is considered that the proposals would not result in harm to the amenities of neighbouring residential properties and thus aligns with Policies D1 and H4 of the LDP.

## 5.7 Heritage

- 5.7.1 The site lies outside of a Conservation Area and there are no nearby Listed Buildings to be impacted. The development remains acceptable in terms of these matters. However, the other consideration in relation to heritage relates to archaeology. Policy S6 requires a comprehensive and detailed archaeological assessment to be undertaken prior to development, and for development to preserve and enhance the quality of the archaeology of the location. Policy D6 requires that where development might affect archaeology, an assessment from an appropriate specialist must be carried out to identify the likely impact on known or potential heritage assets.

- 5.7.2 The application has been supported by an Archaeological Desk-Based Assessment which has established the presence of multi-period archaeological remains in the

vicinity, both relating to the historic settlement and pre-dating it, and recent test-pitting to the north and east has identified prehistoric, Roman, medieval and post-medieval pottery. In addition, there is historic cartographic evidence of settlements immediately adjoining the site in the medieval period, and the site also has potential for Palaeolithic and Pleistocene remains.

- 5.7.3 Archaeological deposits are both fragile and irreplaceable and any permitted development on site should be preceded by a programme of archaeological investigation which should be secured by an Archaeological Assessment condition and Implementation of Archaeological Fieldwork Programme Condition.

## 5.8 Access, Parking and Highway Safety

- 5.8.1 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 approved LDP (2017) seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse-riding routes.
- 5.8.2 The application is supported by a Transport Statement (TS) (prepared by Icen Consulting, dated March 2024). The TS reviews sustainable transport opportunities and proximity to local facilities / amenities, evaluates the proposed site accesses and pedestrian links to / from the development, assesses potential traffic generation, and reviews local parking standards.

### Access and Highway Safety

- 5.8.3 The application site would be accessed from Vicarage Court (an adopted highway), through a new access. The internal road layout within the development allows access for an Essex County Fire & Rescue Service fire appliance to serve all dwellings. The turning heads have been designed to allow a fire tender sufficient space to turn. In addition, the internal road layout allows access for refuse vehicles to serve all dwellings, and the turning heads have also been designed to allow a refuse vehicle sufficient space to turn.
- 5.8.4 In terms of pedestrian access, a new 2-metre-wide footpath is proposed in Vicarage Court, which would connect the development to the wider footpath network (and would be offered for adoption). Vicarage Court has traffic calming features in place, in the form of bends, and speeds are kept low. As such the proposal would provide safe pedestrian access.
- 5.8.5 Third party comments have raised concerns with the proposed footpath stating that part of the land that is required for the footpath is owned by a Vicarage Court resident(s), established on the basis that the land remained in the ownership of Briwood Developments and when they dissolved, the ownership of this land transferred to a Vicarage court resident by adverse rights of possession over the necessary periods of time.
- 5.8.6 Officers have engaged in discussions with the agents and the Highways Authority regarding this matter and note that there is a small area of land to the southern end of the new path where the ownership is unknown. In this respect, Certificate D has been completed and submitted as part of the application, and a notice was placed in the Maldon & Burnham Standard. Land Registry records the ownership of the title

with a company that no longer exists, but this does not mean that it automatically passes to a neighbour simply because a company has closed down: there continues to be an owner and their identity is unknown, which is why the planning system includes the ability to submit Certificate D with an application for planning permission.

- 5.8.7 Once the new footpath is complete, the Highway Authority must post a notice on the site explaining its intention to adopt the works as part of the public highway and if there are no objections within one month, they become part of the highway. However, if there are objections, the matter will be resolved by the Magistrates Court. This is therefore a matter that sits outside the planning system. There is no evidence to suggest that the application cannot be lawfully implemented.

#### Trip Generation

- 5.8.8 The TS considers trip data and sets out a peak trip generation as follows:-
- AM Peak (8 - 9am) – 3 movement in and 10 out.
  - PM Peak (5 - 6pm) – 8 movements in and 6 out
  - Total daily – 133 two-way traffic movements in a 12 hour period between 07:00 – 19.00.
- 5.8.9 The TS concludes that trip generation for the development would be low and as such would not have a negative impact on the local highway network.

#### Parking provision

- 5.8.10 Policy D1 of the LDP requires developments to provide safe and secure vehicle and cycle parking in accordance with the Council's adopted Vehicle Parking Standards SPD which contains the parking standards expressed as minimum standards. This takes into account Government guidance which encourages the reduction in the reliance on the car and promotes methods of sustainable transport. In terms of parking provision for vehicles and bicycles, the standards as set out in the SPD for dwellinghouses are as follows:
- On plot parking: Minimum 1 parking space per dwelling; 1 space per 1-bed; 2 spaces per 2 – 3-bed; and 3 spaces per 4+bed;
  - Visitor parking - 1 per 4 dwellings;
  - Off street parking: at least 1 home charging point per dwelling
  - Cycle parking: none if garages provided; otherwise, 1 per 1-bed unit, 2 per 2+beds unit; + 1 per 8 units (for visitors)
- 5.8.11 The proposed vehicle parking provision complies with the above standards, with on plot parking spaces provided in addition to garage spaces on many plots. All parking spaces and garages meet the size standards in the SPD for parking spaces and garages. The 9no. visitor parking are relatively well distributed across the site to serve demand.
- 5.8.12 The layout plan also indicates that EVC points are proposed in compliance with the SPD with one charging point per residential dwelling to be provided either within garages or immediately adjacent to the parking spaces. As EVC is now a requirement under Building Regulations, there is no need for this to be secured via condition.

- 5.8.13 In terms of cycle storage provision, where no garages are provided, cycle parking is to be provided within secure parking stores on plot, and this would be secured by way of a condition.

#### Conclusion

- 5.8.14 The TS concludes that the local road network has adequate capacity to serve the development. It also sets out that a review of local highway safety records found no reoccurring issues at the location of accidents, and that the development is considered unlikely to have a disproportionate impact on local highway safety. It further concludes that the site is in a good sustainable location and can be connected onto the existing highway network which can accommodate the potential traffic flows from the development without having a negative impact on the existing local highway network.

- 5.8.15 ECC as the Highway Authority has reviewed the submitted information and comment as follows:

*“The proposals involve taking access via Vicarage Court, which is currently a shared surface cul-de-sac of approximately 4.8m width. It was designed using now-outdated Essex Design Guide standards. The Highway Authority made that point in its initial consultation response to this application and indicated that it could not support the development proposals unless safe pedestrian access could be provided. The applicant has since provided details of a new footway to run alongside the existing Vicarage Court carriageway to address that concern.*

*Whilst this arrangement is sufficient to overcome the reason why the Highway Authority recommended refusal of the application, ECC has been made aware that questions have been raised regarding the legitimacy of the developer using land designated for the footway and vehicle access. Issues relating to land ownership and its control are not the concern of the Highway Authority and are not therefore considered in its deliberations. It should, however, be made clear again that, if the applicant is unable to provide the footway or the vehicle access for whatever reason, the Highway Authority would not support this application.*

*Consequently, from a highway and transportation perspective, the impact of the proposal is acceptable ...”*

- 5.8.16 The Highway Authority concludes that from a highway and transportation perspective, the impact of the proposal is acceptable. They recommend a number of conditions be added to any decision to grant permission, including the provision of a construction management plan, construction of the footpath, and other access arrangement as per the plans, cycle provision and similar.
- 5.8.17 Based on the above, it is anticipated that the development would not cause harm in relation to highway capacity or highway safety. The proposal is therefore considered to accord with Policies D1 and T2 of the LDP.

#### **5.9 Flood Risk, Surface Water and Foul Drainage**

- 5.9.1 Policy D5 of the LDP states that the Council's approach is to direct growth towards lower flood risk areas, such as Flood Zone 1, as identified by the Environment Agency. The Policy also requires that all development must not increase flood risk (including fluvial, surface and coastal) on site and elsewhere.

- 5.9.2 The application has been submitted with a Flood Risk Assessment (FRA) which sets out that the site lies within Flood Zone 1 and therefore has a low probability of flooding from rivers and sea. In terms of other flood risk, in respect of flooding from reservoirs, canals or other artificial water sources, this is also low, with the lakes located to the south being at a lower level. There is no historic evidence of flooding from sewers and the site is at low risk of flooding from surface water.
- 5.9.3 The FRA concludes that the proposed development will be at low risk of flooding from rivers and sea, and Storm Water will be managed up to and including the 1 in 100 year critical storm +45% climate change and 10% allowance for urban creep. In terms of surface water, infiltration is not a viable solution for disposal due to the potential underlying ground conditions comprising clay and silt and taking into consideration the topography of the site, thus measures would be provided to appropriately manage surface water on the development (to be secured via condition). There would be no increase flood risk elsewhere due to the proposed development through loss of flood plain storage or impedance of flood flows.
- 5.9.4 The Lead Local Flood Authority (LLFA) has reviewed the application and advise that there is no objection to the application subject to conditions in relation to surface water drainage together with ongoing maintenance and management of the system.
- 5.9.5 Foul Water from the proposed development would be disposed of by means of a foul pump station, discharging to the existing foul drain which runs through the northwest corner of site. Anglian Water has advised that the foul drainage from the development is in the catchment of Southminster Water Recycling Centre that would have available capacity for these flows and wherein the proposed connection is acceptable.
- 5.9.6 Overall, the proposal is considered acceptable in relation to flooding and drainage, subject to conditions.
- 5.10 **Impact on Ecology, Biodiversity and Landscaping**
- 5.10.1 Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network, whilst Policy S2 requires development proposals to be accompanied by a comprehensive and detailed ecological survey.
- 5.10.2 Policy D1 requires that, amongst other things, all development must respect and enhance the character and local context and make a positive contribution in terms of the natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value.
- 5.10.3 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. Whilst Policy N2 seeks to deliver net biodiversity gain and sets out that any development which could have an adverse effect 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.

Ecology

5.10.4 The application has been submitted with a suite of ecological information relating to the likely impacts of development on designated sites, protected & Priority species and habitats and identification of proportionate mitigation. The supporting information includes the following: -

- Preliminary Ecological Appraisal (James Blake Associates, August 2023),
- Ecology Statement (JBA, August 2024),
- Reptile Survey (James Blake Associates, September 2023),
- Letter Confirming GCN eDNA results (ACJ Ecology, August 2024),
- Precautionary Method of Working (Ecology) (ACJ Ecology, August 2024),
- Proposed Receptor Site (ACJ Ecology, October 2024),
- Proposed Receptor Site Letter (JCN Design & Planning, October 2024),
- Indicative Biodiversity Net Gain Calculation Revision A (JBA, August 2024),
- Statutory Biodiversity Metric Revision A (August 2024),

5.10.5 On the basis of the above supporting information, Officers are satisfied that there is sufficient ecological information available for determination of the application, and which provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and that with appropriate mitigation measures secured, the development can be made acceptable.

5.10.6 The mitigation measures identified in the PEA are acceptable and would be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats, badger, GCN, hedgehog, reptiles, and nesting birds.

5.10.7 The Reptile Survey identifies a “good” population of Slowworm and “low” population of Common Lizard. Reptiles should therefore be considered as part of this planning application, and a reptile mitigation strategy is to be implemented in full prior to the commencement of works on site for the construction stage, including storage of materials. This would involve a translocation to an offsite receptor site (highlighted within the Proposed Receptor Site and the Proposed Receptor Site Letter) with destructive searches and implementation of exclusion fences on the perimeter of the site. Provision of this reptile mitigation strategy should be secured by a condition of any consent.

5.10.8 The proposed reasonable biodiversity enhancements, which are recommended to secure net gains for biodiversity are supported. These enhancement measures should be outlined within a Biodiversity Enhancement Strategy to be secured by a condition of any consent.

5.10.9 The site is considered suitable for foraging and commuting bats. For any proposed external lighting, it is advised that a sensitive lighting scheme is developed to minimise any impacts to foraging and commuting bat habitat. A condition is imposed to ensure that any lighting is designed to be sensitive for ecology.

Ecology regarding development within the Zone of Influence (Zol) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)

5.10.10 The application site falls within the Zol for one or more of the European designated sites (The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary Special Protection Area (SPA) and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site). The combined recreational Zol of these sites cover the whole of the Maldon District. This means that the development could potentially have a

likely significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination'.

- 5.10.11 In terms of RAMs, the site falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). The LPA must therefore undertake an HRA and secure a proportionate financial contribution towards the Essex Coast RAMS. The development will result in the net gain of 1 no. dwelling at the site. This falls below the scale at which bespoke advice is given from Natural England (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 (Zol) for the Essex Coat RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes, the application is for 1no. dwelling, and therefore the net increase of dwellings at the site is 1no. dwelling.

##### 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.

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. NE does not need to re-consult on this Appropriate Assessment.

- 5.10.12 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 £163.86 and thus, the developer contribution should be calculated at this figure. This would be secured within the Legal Agreement. The proposal would therefore adequately mitigate the potential likely significant effects from recreational pressure on nearby European sites.

#### Biodiversity Net Gain

- 5.10.13 Biodiversity net gains is a statutory requirement set out under Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990. The application has been submitted with the Biodiversity Net Gain Assessment – Rev D (CSA Environmental Ltd, June 2024) and the Statutory Biodiversity Metric –

Calculation Tool (CSA Environmental Ltd, March 2024), which provide sufficient information for consideration.

- 5.10.14 The submission demonstrates that the development would deliver 13.63% increase in habitat units and 10.11 % increase in hedgerow units. As a result, a Biodiversity Gain Plan, as well as the finalised full Statutory Biodiversity Metric – Calculation Tool, should be submitted prior to commencement as part of the biodiversity gain condition.
- 5.10.15 In addition, a Habitat Management and Monitoring Plan (HMMP) should be secured for all significant on-site enhancements. This should be in line with the approved Biodiversity Gain Plan, with the maintenance and monitoring secured via legal obligation or a condition of any consent for a period of up to 30 years. The monitoring of the post-development habitat creation / enhancement will need be provided to the LPA at years 2, 5, 10, 15, 20, 25, 30 any remedial action or adaptive management will then be agreed with the LPA to ensure the aims and objectives of the Biodiversity Gain Plan are achieved.

#### Landscape

- 5.10.16 The application has been submitted with a Tree Protection Plan and Method Statements which sets out that 1 Tree within G5 would be required for removal to facilitate construction of the garage to Plot 36. This tree is a small Elder of low value (Category C), and subject to appropriate replacement, the loss can be justified. The development would require excavation within the Root Protection Area (RPA) of T3, T5, T6 and G1 for the construction of the private road access / driveway, and the document sets out a suitable method statement of using handheld tools only to limit the impact that would otherwise result from mechanical excavation.
- 5.10.17 In addition, the document sets out that occasional standard / routine tree works are required to maintain suitable crown clearance for the end use amenity spaces. The works would not have a detrimental effect on tree health or visual amenity value and are limited to lateral spread reduction (H1) and crown lifting 2.5-3m of secondary laterals only (T4-T7). No further tree works, or special construction techniques, are required to protect / retain the trees. The trees can be adequately protected using temporary barriers and ground protection as detailed. This would ensure the protection of trees in compliance with Policies S1, N1 and N2 of the LDP.
- 5.10.18 In regard to the proposed hard and soft landscaping scheme, the accompanying Green Infrastructure Strategy Plan sets out the approach for street trees, with semi native and ornamental hedges planted in more formal areas to define the street and soften the built form, and planting of native species adjacent to open spaces and along the site boundaries to create an appropriate transition to the surrounding area and wider countryside. This sets out an appropriate high level approach and would assist in delivering a high-quality development with biodiversity net gain, and the full details of the hard and sot landscaping scheme would be secured via condition.

#### **5.11 Planning Balance and Sustainability**

- 5.11.1 As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives): - an economic objective (to help build a strong, responsive, and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation, and improved productivity; and by identifying and

coordinating the provision of infrastructure); - a social objective (to support strong, vibrant, and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and - an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

5.11.2 The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in Paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in Paragraph 77) and does not benefit from the provisions of Paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years), granting permission unless:

- i. The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

5.11.3 As indicated above, the Council's latest 5YHLS position for 2023-2028 shows that the Council has a 6.3 years supply. The Council considers this a robust position and as the Council is able to demonstrate an up to date 5YHLS, and because the most important policies for determining the application are not out of date, the presumption (at Paragraph 11d of the Framework) is not engaged. Consequently, the policies within the Development Plan are considered to have full weight in decision making. Planning applications must therefore be determined in accordance with the Development Plan, unless material planning considerations indicate otherwise.

5.11.4 The adverse impacts and benefits of the proposed development are set out below.

## 5.12 Summary of Adverse Impacts

### Conflict with the Development Plan

5.12.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be "genuinely plan led".

5.12.2 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

5.12.3 In this case, the application site is located outside of the defined settlement boundary and the development is therefore contrary to the Development Plan. However, as set out above, Officers have previously accepted the principle of residential development at the site and concluded that the site was in a sustainable location. Therefore, only limited weight is assigned to the conflict with the Development Plan.

### 5.13 Summary of Public Benefits

#### Mix of Market Housing

5.13.1 The development would deliver 25no. market dwellings. However, the Council's can demonstrate 5YHLS, and the housing mix is in conflict with the LHNA. Limited weight is therefore assigned to the delivery of market dwellings.

#### Affordable Housing

5.13.2 The development would deliver a policy compliant amount of affordable housing, amounting to 11no. affordable housing units, of a tenure mix which meets policy (75% Rented and 25% Intermediate Affordable Housing). The affordable housing would also meet with the need for larger rented units (3 and 4 bed units). Significant weight is attributed to the provision of affordable housing on site.

#### Access to services and facilities (locational sustainability)

5.13.3 Future occupiers of the site could readily access the services and facilities within Southminster which would meet with some day-to-day needs, but would need to travel further afield for other education, employment, leisure and shopping opportunities. The site is in walking distance to the railway station and bus stops which would enable occupiers to access these services by means of travel other than the private vehicle. On this basis, the site is well placed in terms of access to services and facilities and moderate weight is assigned to this.

#### Social and Economic Benefits

5.13.4 The delivery of dwellings meets with the social sustainability of the development, and there would be further social (and economic) benefits of additional customers for services and facilities in Southminster which is one of the larger settlements in the District and its continued growth is important for it to continue providing the range of services and facilities it offers. Further economic benefits would be delivered from the construction phase of the development, where the opportunity exists for sourcing local labour, and thereafter with the spending powers of future residents. Moderate weight is attributed to the social and economic benefits.

#### Environmental Benefits / Biodiversity Net Gain (BNG)

5.13.5 Environmental benefits would be delivered as a result of the enhancement and provision of landscape and ecological features including new hedgerows, trees, wildflower planting and swale. There would be a 13.63% increase in overall habitat units with a 10.11% in hedgerow units. The on-site biodiversity gains are considered 'significant' and would be secured through an appropriate legal mechanism for 30-years subject to an onsite HMMP. Moderate weight is assigned to this.

### 5.14 Conclusion

5.14.1 The site lies outside of the settlement boundary for Southminster and thus the proposed development would be contrary to the Development Plan. However, a material consideration in this instance relates to the former planning permissions at the site (Planning permission was granted for 13 dwellings under application

16/00105/OUT and 20/00102/RES), which although do not remain extant, the stance of the LPA in those earlier planning applications is a material consideration. Within the outline planning application Officers determined that although the site was outside of the defined settlement boundary, it was adjacent to the boundary and would help to maintain sustainable rural communities, and noted the proximity of the site within walking distance of local services and facilities as well as alternative modes of transport, concluding that the site was in a sustainable location. This decision was taken at a time when the LPA could demonstrate 5YHLS. Within this current application, appropriate weight needs to be applied to this earlier position within the 'planning balance'.

- 5.14.2 The application would deliver 36no. dwellings in a highly sustainable location within Southminster. Although the market housing (25 units) would provide an over delivery of 4 bed market dwellings, the conflict with the LHNA is not a reason to refuse planning permission (but rather is a matter which lessens the positive weight to housing delivery in the planning balance). However, the application would deliver 11 affordable units, including an over delivery of larger rented dwellings, which would greatly assist the current demand of larger families on the Housing Register. All the dwellings would comply with Nationally Described Space Standards (NDSS).
- 5.14.3 The layout of development would follow the grain of existing developments to the west, and the detailed design of dwellings would also follow the same approach with the use of projecting front gables, bay windows, stone cills, chimneys, and a complementary palette of materials. Well laid out and landscaped open space would be provided. Overall, the layout and design of the proposal would create a high-quality development.
- 5.14.4 The development would provide high quality amenity for future occupiers, and all the dwellings adhere to the Nationally Described Space Standards. Externally, private amenity space is provided in accordance with the Adopted Maldon District Design Guide, and the open space provision is considered acceptable.
- 5.14.5 There would be no unacceptable impact to neighbouring amenity.
- 5.14.6 In terms of highways matters, the local highway network has adequate capacity to serve the development and the development would not have an adverse impact upon local highway safety. The Highway Authority has no objections from a highway and transportation perspective subject to the imposition of conditions. Adequate vehicle parking and cycle storage would be provided for the development.
- 5.14.7 Matters in relation to landscape and ecology are satisfactory, and the development would deliver significant on-site BNG which would be secured for 30 years. In addition, the development would be acceptable in terms of flood risk and drainage.
- 5.14.8 Having considered the benefits that would arise from the proposal and weighed this against the harm arising from the conflict with the Development Plan, it is considered that the benefits of the development would outweigh any harm. These benefits would amount to material considerations of weight that would indicate that planning permission could be granted not in accordance with the Development Plan, and it is recommended that planning permission be granted subject to the imposition of conditions and all interested parties first entering into a S106 Agreement to secure the necessary obligations, as set out.

## 6. ANY RELEVANT SITE HISTORY

6.1 The Relevant Planning History is set out below.

- **16/00105/OUT** – Outline planning application for the provision of up to 13 dwellings, provision of public open space and a new vehicular access from Vicarage Court. Allowed at appeal APP/X1545/W/17/3167607.
- **20/00102/RES** - Reserved matters application for the approval of appearance, landscaping, layout on approved planning application OUT/MAL/16/00105 allowed on appeal APP/X1545/W/17/3167607 (Outline planning application for the provision of up to 13 dwellings, provision of public open space and a new vehicular access from Vicarage Court). Granted.

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Southminster Town Council	<p>Object:</p> <ul style="list-style-type: none"> <li>- Note that the permission for 13 dwellings expired in 2023. Since that date further information regarding highway and access has come forward to suggest that decision was flawed (comment that the Highway Authority did not realise that the site entrance was restricted to 5.2m and that Vicarage Court was at its narrowest point less than 4.1m wide).</li> <li>- Narrow access. Impossible for two vehicles to pass each other at the entrance to the site. Risks to pedestrians and other road users. Vicarage Court is inappropriate to route the traffic through Vicarage Court.</li> <li>- Part of the site includes land at Vicarage Court not in the applicant's control. Unclear how construction vehicles would safely use this entrance.</li> <li>- Occupiers of Vicarage Court and Vicarage Meadows would suffer loss of amenity due to the impact of air, light, and noise pollution.</li> <li>- Development is incongruous to properties in Vicarage Court and Vicarage Meadows contrary to Policy D1.</li> <li>- Residents would be heavily reliant on their own transport. The use of the pedestrian access through Vicarage Meadows is disputed by the landowners on the grounds that it is only to be used for "emergency access" not "everyday access".</li> </ul>	<p>Noted. Addressed within Sections 5.1, 5.2 and 5.8 of the Report.</p>

## 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council – Highway Authority	<p>No objections subject to conditions.</p> <p>Comment that the proposal involves access via Vicarage Court, which is currently a shared surface cul-de-sac of approximately 4.8m width, designed using now-outdated Essex Design Guide standards. Note that the applicant has provided details of a new footway to run alongside the existing Vicarage Court carriageway to address that concern and advise that this arrangement is sufficient. (ECC has been made aware that questions have been raised regarding the legitimacy of the developer using land designated for the footway and vehicle access. Issues relating to land ownership and its control are not the concern of the Highway Authority and are not therefore considered in its deliberations. It should, however, be made clear again that, if the applicant is unable to provide the footway or the vehicle access for whatever reason, the Highway Authority would not support this application).</p> <p>Consequently, from a highway and transportation perspective, the impact of the proposal is acceptable to the Highway Authority subject to conditions for: a Construction Management Plan; vehicle access provided as shown; a footway with a minimum width of 1.8m to be provided from the site to run alongside the Vicarage Court carriageway in order to connect with the existing pedestrian footway close to the junction with Vicarage Meadow; vehicle parking areas; cycle parking; and a Residential Travel Information Pack.</p>	Addressed within Section 5.8 of the report.
Essex County Council Education	<p>If planning permission is granted the development should be subject to a section 106 agreement to mitigate its impact on education facilities with the following contributions:</p> <ul style="list-style-type: none"> <li>• Early Years and Childcare (EY&amp;C) places;</li> <li>• Primary School places;</li> <li>• Secondary School places;</li> <li>• School transport contribution.</li> </ul> <p>In addition, there is a requested contribution towards libraries, together with monitoring fees.</p>	Addressed within Section 4.4 of the report.
Lead Local Flood Authority (LLFA)	<p>Do not object.</p> <p>Comment that having reviewed the Flood Risk Assessment (FRA) and the associated documents do not object subject to conditions for: detailed surface water drainage; scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction works; maintenance plan; yearly logs of</p>	Addressed within Section 5.9 the report.

**APPENDIX 1**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
	maintenance.	
Essex County Council Archaeology	Recommended that any approved shall include a condition for full archaeological works.	Addressed within Section 5.7 of the report.
Natural England	No objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites (European sites). Advise that in addition, there should be access to on-site or nearby public open space.	Addressed within Section 5.10 of the report.
Essex Police Designing Out Crime	Neither object nor support. Respond with no concerns with the layout. Advise that to comment further, they would require more detail such as the proposed lighting and physical security measures. Welcome the opportunity to advise further to assist the developer to achieve a Secured by Design Homes award.	Noted.
National Health Service (NHS)	Advise that the proposed development will likely have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. The development could generate approximately 86 new residents and subsequently increase demand upon existing constrained services. The ICS therefore requests that the sum of £17,500 be secured through a planning obligation in the form of a S106 agreement is linked to any grant of planning permission in order to increase capacity for the benefit of patients of the Primary Care Network operating in the area.	Addressed within Section 4.4 of the report.
Anglian Water	<p>Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space.</p> <p>The foul drainage from this development is in the catchment of Southminster Water Recycling Centre that will have available capacity for these flows. The proposed connection is acceptable. We do not require a condition in planning for foul water.</p> <p>From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments in the suitability of the surface water management.</p>	<p>Noted.</p> <p>Addressed within Section 5.9 of the report.</p>

**APPENDIX 1**

## 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Affordable Housing Officer	Fully supports (subject to s106 being agreed). Application is providing 3 x 3 bed Rented dwellings and a 4 bedroom rented dwelling. The Housing Register demonstrates a very high need for larger family properties, particularly at social rent levels which are more affordable to low-income families, which is currently the greatest need at Social Rent levels. These properties will greatly assist in meeting the Housing needs of the district.	Addressed within Section 5.2 of the report.
Ecology Consultant	No objection subject to securing ecological mitigation and enhancement measures, including mandatory biodiversity net gains.	Addressed within Section 5.10 of the report.
Environmental Health	No objections. Concur with the conclusions of the Phase 1 land contamination study – that no further intrusive investigation or mitigation is necessary. Advise that adherence to the construction management plan should be secured via condition.	Addressed within Section 5.6 of the report.
Tree Officer	Comment that the Tree Survey identified 8 individual trees, 4 groups of trees and 2 hedges within influencing distance of this proposal. Advise that the application is supported from an arboricultural perspective provided a Soft Landscaping Scheme with a five-year maintenance plan regarding the new planting is secured via condition, and that trees and hedges identified for retention are protected during development.	Addressed with Section 5.10 of the report.

## 7.4 Representations received from Interested Parties

- 7.4.1 The application was advertised by way of a site notices and an advertisement in the newspaper. There have been third party representation received from 67 addresses, objecting to the development on the following grounds: -

Objection Comment	Officer Response
<b>Principle of development</b> <ul style="list-style-type: none"> <li>- Town already has many properties for sale. No additional required;</li> <li>- The site is not identified within the LDP for development;</li> <li>- The LPA can demonstrate 5YHLS.</li> </ul>	Noted, addressed in section 5.1 of this report.
<b>Design / Layout</b> <ul style="list-style-type: none"> <li>- Design is incongruous to locality</li> <li>- Open space proposed does not outweigh harm.</li> </ul>	Noted, addressed in section 5.4 of this report.
<b>Ecology / Landscape</b> <ul style="list-style-type: none"> <li>- Ecology surveys are outdated and inadequate;</li> <li>- Loss of habitat for birds and wildlife.</li> </ul>	Noted, addressed in section 5.10 of this report.
<b>Highway Safety / Access</b> <ul style="list-style-type: none"> <li>- No capacity in network to accommodate the development;</li> </ul>	Noted, addressed in section 5.8 of this

Objection Comment	Officer Response
<ul style="list-style-type: none"> <li>- Increase of traffic and impact to road safety for road users, cyclists and pedestrians.</li> </ul>	report.
<p><b>Infrastructure / Services</b></p> <ul style="list-style-type: none"> <li>- Poor facilities in Southminster</li> <li>- Impact to local, doctors, hospital, dentists, fire and ambulance services, and schools (already oversubscribed);</li> <li>- Will add to existing overcrowded commuter trains;</li> <li>- No wider community benefit;</li> <li>- Existing waste water system is unable to cope.</li> </ul>	Noted, addressed in sections 4.4 and 5.3 of this report.
<p><b>Neighbouring Impacts</b></p> <ul style="list-style-type: none"> <li>- Health and safety impacts during construction;</li> <li>- overlooking to neighbouring residential dwellings</li> <li>- overlooking to school playing field</li> <li>- increased noise, light and air pollution</li> </ul>	Noted, addressed within section 5.6 of this report.

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

**HEADS OF TERMS OF ANY SECTION 106 AGREEMENT**

Affordable Housing:

11no. Affordable Housing units comprising the mix and tenure split (75% affordable rent and 25% shared ownership) as set out within the Planning Statement.

Healthcare:

A financial contribution of £17,500.00 in order to increase capacity for the benefit of patients of the Primary Care Network operating in the area, through any combination of extension, reconfiguration or relocation of premises as requested by the Mid and South Essex ICS.

Education:

- Early Years and Childcare - A developer contribution of £62,390.00 index linked to mitigate the impact of the development on local Early Years & Childcare provision.
- Primary Education - A developer contribution of £209,790.00 index linked towards the creation of 16.5 additional primary school places and / or a new education facility is sought to mitigate the impact of the development on local Primary School provision.
- Secondary Education - A developer contribution of £192,362.00 index linked towards the creation of 11 additional secondary school places and / or a new education facility, is sought to mitigate the developments impact on local Secondary School provision.
- School Transport – A developer contribution of £42,818.40 index linked to mitigate the poor route currently available to the closest secondary school (Ormiston Rivers Academy).

Libraries

A developer contribution of £2800.80 index linked, to improve, enhance and extend the facilities and services provided at Southminster Library due to expected additional usage that would be brought about by the proposed development.

ECC Monitoring Fees:

To pay the County Councils Monitoring Fee of £700 per obligation (financial and otherwise).

Essex Coast RAMS:

A financial contribution of £163.86 x 36 to mitigate increases in recreational pressure effects on the coastal protected sites in-combination with other projects within the Zol of the Essex Coast protected areas

Appointment of Management Company:

Secure the appointment of a management company for the development.

Indexing:

All contribution payments to be index linked.

S106 Legal and District Council Monitoring fees:

Pay the Council's professional fees associated with the preparation and completion of the S106 Legal Agreement and the cost of monitoring.

**PROPOSED CONDITIONS:**

1. The development hereby permitted shall be begun before the expiry of three years from the date of this permission.  
REASON: To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

MA015a-PL-01 rev. B  
 MA015a-PL-02 rev. D  
 MA015a-PL-03 rev. B  
 MA015a-PL-04 rev. B  
 MA015a-PL-05 rev. B  
 MA015a-PL-06 rev. B  
 MA015a-PL-07 rev. B  
 MA015a-PL-08 rev. B  
 MA015a-PL-09 rev. B  
 PR270 01 rev. C  
 PR270 02 rev. B  
 23-037-DR-CE-2021  
 MA015a-HA-HA50-01 rev. B  
 MA015a-HT-754-01 rev. C  
 MA015a-HA-759-01 rev. B  
 MA015a-HA-919-01 rev. B  
 MA015a-HT-1009-01 rev. B  
 MA015a-HT-1009-02  
 MA015a-HT-1024-01 rev. B  
 HMA015a-HT-1024-02  
 MA015a-HA-1182-01 rev. B  
 MA015a-HT-1529-01 rev. B  
 MA015a-HT-1529-02

MA015a-HT-1539-01 rev. C

MA015a-HT-1539-02

MA015a-GR-01 rev. A

MA015a-GR-02 rev. A

MA015a-ST-01 rev. A

MA015a-ST-02 rev. A

MA015a-SCS-01 rev. A

REASON: To ensure the development is carried out in accordance with the details as approved.

3. No above ground works shall commence until samples or product details of the materials to be used in the construction of the external surfaces of the buildings, including windows, doors, and the proposed brick walls, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

REASON: To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).

4. No development shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
- A full topographical site survey showing existing levels including: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals; and levels of adjoining buildings and their gardens;
  - Full details of the proposed finished floor levels of all buildings, proposed garden levels, proposed levels along all site boundaries, and proposed levels for all hard and soft landscaped surfaces.

The development shall only be carried out in accordance with the approved details.

REASON: To avoid the excessive raising or lowering of ground levels and therefore any buildings within the site which may lead to unneighbourly development with problems of overlooking and loss of privacy, and to ensure that the development does not prejudice the appearance of the locality, in accordance with policy D1 of the approved Local Development Plan 2017. The levels information is required prior to the commencement of development to ensure that the correct site levels are achieved from the outset of the construction phase.

5. Prior to the first occupation of each dwelling, the associated soft landscaping works relating to that plot, as shown on the approved planting drawing 01 REV C, shall be fully carried out. Prior to the occupation of the thirtieth dwelling, all other soft landscaping and the open space provision, shall be fully carried out. The aftercare and maintenance shall be carried out in accordance with the approved details, and the planting shall thereafter be retained as such. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.

REASON: In the interest of the character and appearance of the area as well as to ensure privacy for future residents in accordance with policy D1 of the approved Local Development Plan 2017 and guidance contained within the National Planning Policy Framework.

6. No development shall commence until the tree and hedge protection measures as set out in the Tree Protection Plan and Method Statements (reference TPSQU0052 Rev, Issue 2 REV 1), have been fully implemented. The development shall thereafter be carried out in accordance with the Arboricultural Method Statement as set out within the document.  
REASON: In the interest of the character and appearance of the site, in accordance with Policies S1, D1, and D4 of the Local Development Plan 2017 and guidance contained within the National Planning Policy Framework.
7. Prior to the first occupation of each dwelling, the associated means of enclosure for that dwelling, as shown on plan MA015a-PL-03 REV B, shall be fully erected, and thereafter shall be retained as such.  
REASON: In the interest of the character and appearance of the site, in accordance with Policies S1, D1, and D4 of the approved Local Development Plan 2017 and guidance contained within the National Planning Policy Framework.
8. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment and the following mitigation measures detailed within the FRA:
- Limiting the discharge from the site to 5.35l/s.
  - Provide attenuation storage (including locations on layout plan) for all storm events up to and including the 1:100 year storm event inclusive of 45% climate change.
- The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.  
REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, and to ensure the effective treatment of surface water runoff to prevent pollution.
9. No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. the scheme shall subsequently be implemented as approved.  
REASON: The National Planning Policy Framework paragraph 167 and paragraph 174 state that Local Planning Authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.
10. Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies and recording of such maintenance on each parcel, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be

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

REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

11. No development shall take place, including any ground works, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include the following:
- Safe access in / out of the site
  - The parking of vehicles of site operatives and visitors
  - Loading and unloading of plant and materials
  - Storage of plant and materials used in constructing the development
  - The storage of top soil
  - Wheel and underbody washing facilities
  - Construction signage and traffic management
  - Measures to control the emission of dust, dirt and mud during construction
  - A scheme to control noise and vibration during the construction phase, including details of any piling operations
  - Hours of working
  - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - Details of how the approved plan will be implemented and adhered to, including contact details for individuals responsible for ensuring compliance
  - Contact details for Site Manager and details of publication of such details to local residents.

The approved Construction Management Plan shall be adhered to throughout the construction period of the development.

REASON: In the interest of the highway safety and neighbouring amenity in accordance with Policies S1, D1, D4, T1 and T2 of the approved Maldon District Local Development Plan 2017.

12. Prior to the first occupation of each dwelling, the associated vehicle parking areas for that plot, as indicated on the approved plans, shall be hard surfaced, sealed and marked out in parking bays. Prior to the occupation of the last dwelling, all other roads, turning provision and vehicle parking areas shall be fully completed in accordance with the approved plans, and thereafter retained in this form at all times.
- REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.
13. Prior to the commencement of construction of any dwellings or access road, a footway with a minimum width of 1.8metres shall be provided from the site to run alongside the Vicarage Court carriageway in order to connect with the existing pedestrian footway close to the junction with Vicarage Meadow.

REASON: To provide pedestrians and the mobility impaired with safe access in accordance with Policies S1, T1 and T2 of the approved Local Development Plan 2017 and Policies DM1 and DM9 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

14. No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has submitted an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site. Such archaeological assessment shall be approved by the local planning authority and will inform the implementation of a programme of archaeological work. The development shall be carried out in a manner that accommodates such approved programme of archaeological work.

REASON: To protect the archaeology of the site, in accordance with Policy D3 of the approved Local Development Plan 2017 and the National Planning Policy Framework.

16. No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has secured the implementation of a programme of archaeological work from an accredited archaeological contractor in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in a manner that accommodates the approved programme of archaeological work.

The archaeological work will comprise trial-trenching and a geoarchaeological assessment of the proposed development area, followed by full excavation if archaeological or geoarchaeological features are identified. All fieldwork should be conducted by a professional recognised archaeological contractor in accordance with a brief issued by this office.

REASON: To protect the archaeology of the site, in accordance with Policy D3 of the approved Local Development Plan 2017 and the National Planning Policy Framework.

17. All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (James Blake Associates, August 2023). 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 protected and Priority species and 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 (as amended) and Policy N2 of the approved Local Development Plan 2017.

18. No development shall take place until a Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles has been submitted to and approved in writing by the Local Planning Authority. The Reptile Mitigation Strategy shall include the following.
- a) Purpose and conservation objectives for the proposed works.
  - b) Review of site potential and constraints.
  - c) Detailed design(s) and/or working method(s) to achieve stated objectives.
  - d) Extent and location/area of proposed works on appropriate scale maps and plans.

- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance of the Receptor area(s).
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.  
REASON: To allow the Local Planning Authority to discharge its duties under the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended).

19. 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;
- 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 & habitats and allow the Local Planning Authority to discharge its duties under the National Planning Policy Framework and s40 of the NERC Act 2006 (Priority habitats & species).

20. Prior to the first 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, 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).

21. Prior to the commencement of the development hereby approved, a Habitat Management and Monitoring Plan (HMMP), in line with the approved Biodiversity Gain Plan, must be submitted to the Local Planning Authority and approved in writing. The content of the Habitat Management and Monitoring Plan should include the following:

- a) A management and monitoring plan for onsite significant enhancements, including 30-year objectives, management

responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the Biodiversity Net Gain is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed.

The development shall be implemented in full accordance with the requirements of the approved Habitat Management and Monitoring Plan, with monitoring reports submitted to the Local Planning Authority at the specified intervals.

REASON: To allow the development to demonstrate mandatory biodiversity net gain and allow Local Planning Authority to discharge its duties under Schedule 7A to the Town and Country Planning Act 1990.

22. The units which are not provided with garaging shall be provided with the approved cycle storage unit, prior to the first occupation of each unit.  
REASON: To ensure appropriate bicycle parking is provided in accordance with T2 of the approved Local Development Plan 2017.
23. Should the existence of any contaminated ground or ground water conditions and/or hazardous soil gases be found that were not previously identified or not considered, work should stop and a risk assessment shall be carried out and submitted to and approved in writing by the Local Planning Authority.  
REASON: To ensure any contamination found present on the land is remediated in the interests of the future users of this development as well as neighbouring land uses and the water environment in accordance with policy D2 of the approved Local Development Plan 2017, and guidance contained within the National Planning Policy Framework.
24. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order), in relation to Plots 5, 7, 8, 9, 10, 12, 16 and 17, no enlargement of the dwellinghouses or provision of any building within the curtilage of the dwellinghouses as permitted by Classes A, AA and E of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.  
REASON: In order that the Local Planning Authority may exercise control over any proposed future development and in the interests of residential and/or visual amenity, and in accordance with Policies D1 and H4 of the approved Local Development Plan 2017.
25. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order), in relation to Plots 31-34 inclusive, no addition or alteration to the roof of a dwellinghouse, as permitted by Class B of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.  
REASON: In order that the Local Planning Authority may exercise control over any proposed future development and in the interests of residential and/or visual amenity, and in accordance with Policies D1 and H4 of the approved Local Development Plan 2017.
26. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no gate, fence, wall or other means of enclosure shall be erected or constructed, as permitted by Class A of Part 2 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.  
REASON: In order that the Local Planning Authority may exercise control over any proposed future mean of enclosure in the interests of visual amenity

and in accordance with Policies D1 and H4 of the approved Local Development Plan 2017.

27. The garage hereby permitted on Plots 21, 24, 25, 26, 28, 35 and 36, shall be used for the parking of motor vehicles, bicycles, and powered two wheelers associated with the dwelling.

**REASON:** To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the Local Planning Authority and Policies D1, H4 and T2 of the approved Local Development Plan 2017.

## INFORMATIVES

- 1 The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:

- a Biodiversity Gain Plan has been submitted to the planning authority, and
- the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Maldon District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed in paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

- 2 In accordance with Schedule 7A (13) of The Town and Country Planning Act 1990 no development shall commence until a Biodiversity Gain Plan has been submitted to the planning authority, and the planning authority has approved the plan. In order to formally submit the Biodiversity Gain Plan to Maldon District Council please submit a Discharge of Conditions application. It is recommended that you complete and submit the template on the following link as part of your Biodiversity Gain Plan:  
<https://www.gov.uk/government/publications/biodiversity-gain-plan>

A Biodiversity Gain Plan submission should include the following (where relevant):

- a) The completed metric calculation tool showing the calculations of the pre-development and post-intervention biodiversity values
- b) Pre and post development plans drawn to an identified scale and showing the direction of North
- c) Legal agreement
- d) Commitment to deliver and maintain BNG for a minimum of 30 years from the date of completion of the development (for onsite) or from the date that BNG has been completed (offsite)

## APPENDIX 1

- e) Habitat Management and Monitoring Plan (HMMP) in line with the HMMP template or HMMP checklist, concurrent with planting plans or other landscape management plans.
- f) Compensation plan (if affecting irreplaceable habitats)
- g) BNG register reference numbers (if using off-site units)
- h) Proof of purchase (if buying statutory biodiversity credits)

If you are carrying out a phased development the following applies:

- a) A statement showing how the development will proceed in phases must be submitted alongside an Overall Biodiversity Gain Plan before any development can commence.
- b) No development can then commence within each specified phase until a Phase Biodiversity Gain Plan for that phase has been submitted and approved.