



**REPORT of
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
14 MAY 2018**

Application Number	DET/MAL/17/05154
Location	Land West Of Fambridge Road North Fambridge Essex
Proposal	Compliance with conditions notification of approved application OUT/MAL/14/01016 (Outline planning application for up to 75 market and affordable dwellings, a village centre of up to 1,000sqm of flexible commercial and community floor space, a 1.8ha village green and public open space). Condition 5 - Materials. Condition 6 - Treatment boundaries. Condition 8 - Trees. Condition 9 - Hedges. Condition 10 - Ecology Report. Condition 12 - Surface water drainage system. Condition 13 - Foul and surface water drainage system. Condition 14 - Visibility splays. Condition 17 - Surface water. Condition 18 - Finished ground and floor levels. Conditions 19 - On-site construction management plan. Condition 21 - Reptile mitigation strategy. Condition 22 - Mitigation and management strategy. Condition 23 - Archaeological assessment. Condition 24 - Programme of archaeological work. Condition 31 - Wastewater strategy. Condition 33 - Foul water strategy.
Applicant	David Wilson Homes - C/O Agent
Agent	Mr Andy Butcher - Strutt And Parker
Target Decision Date	6 February 2018
Case Officer	Yee Cheung 01621 876220
Parish	NORTH FAMBRIDGE
Reason for Referral to the Committee / Council	Chief Executive Discretion This Discharge of Conditions application was deferred from the last North Western Area Planning Committee - Agenda 6 (3 April 2018) to address Conditions 13, 22 and 33 of outline planning application OUT/MAL/14/01016 .

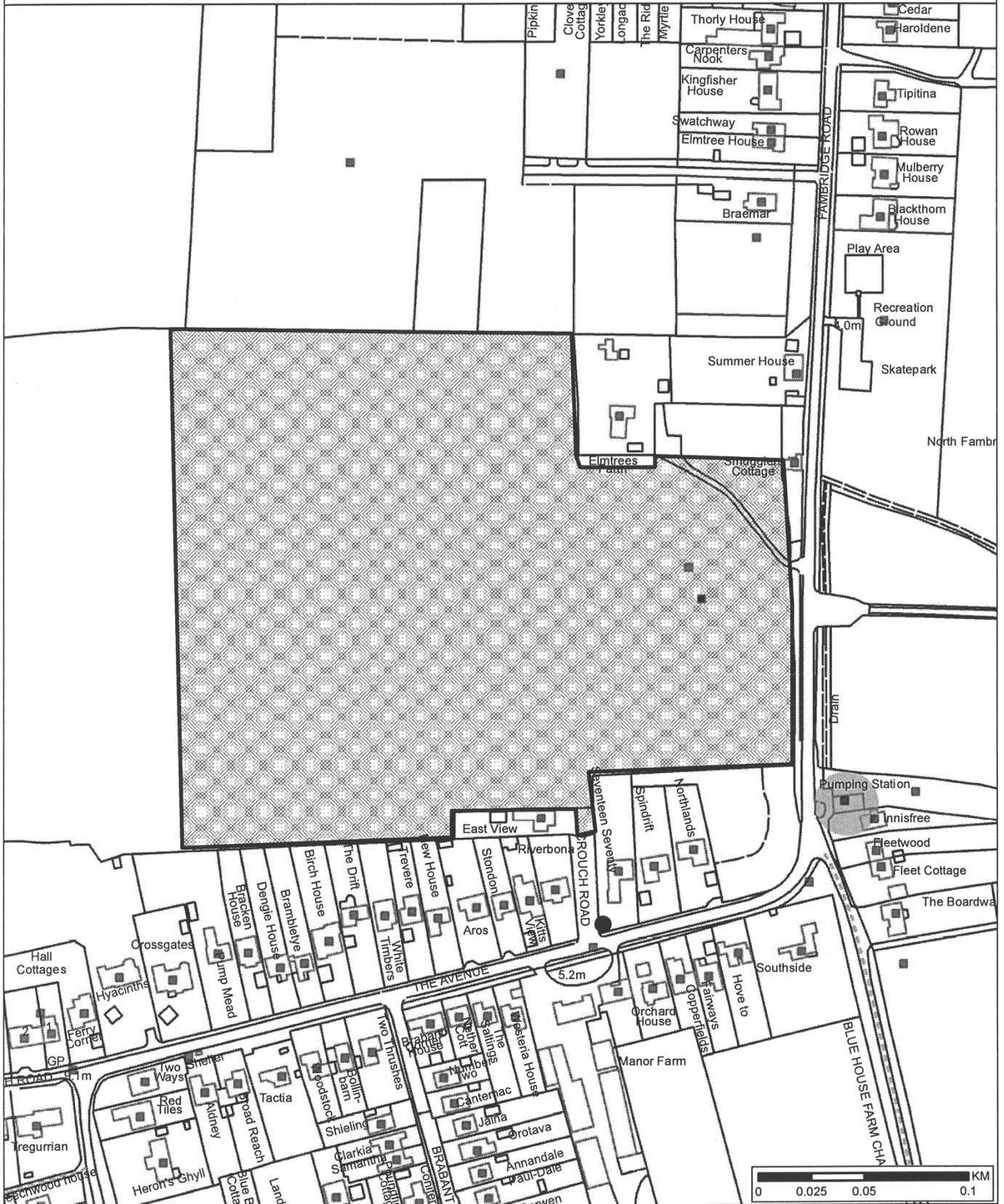
1. RECOMMENDATION


The recommendation is to discharge the following conditions as set out in Section 3.2 of the report.

2. SITE MAP

Please see overleaf.

Land West Of Fambridge Road North Fambridge
 DET/MAL/17/05154



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	<p>Organisation: Maldon District Council</p>	<p>Department: Department</p>
	<p>Comments: NW Committee</p>	<p>Date: 01/05/2018</p>
	<p>MSA Number: 100018588</p>	<p>www.maldon.gov.uk</p>
	<p>Scale: 1:2,500</p>	
	<p>Organisation: Maldon District Council</p>	
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<p>MSA Number: 100018588</p>		

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site measuring approximately 6.19 hectares in size lies within the development boundary for North Fambridge. Before the Maldon District Local Development Plan was approved by the Secretary of State, the application site was located outside the development boundary for North Fambridge in the Maldon District Replacement Local Plan (2005). In the Local Development Plan Proposals Map, the site is within the settlement boundary of North Fambridge.
- 3.1.2 The site is predominantly rectangular in shape and has an existing access off Fambridge Road, opposite the access to Fleet Farm. The topography of the site is gentle, with levels rising consistently and evenly from Fambridge Road towards the west.
- 3.1.3 The site forms part of a larger agricultural field and contains limited hedgerow and tree planting along its boundaries. Rear gardens of existing residential dwellings along The Avenue abuts the southern boundary of the application site.
- 3.1.4 Outline planning application for up to 75 market and affordable dwellings, a village centre of up to 1,000sqm of flexible commercial and community floor space, a 1.8ha village green and public open space (OUT/MAL/14/01016 dated 18 March 2016). As part of the outline approval OUT/MAL/14/01016 , the Applicant had entered a signed Section 106 legal agreement for the following contributions:-
- 30% Affordable housing
 - Education contribution
 - NHS contribution
 - Residential Travel Plan
 - Open Space and Amenity Land
 - Off-site ecological contribution
- 3.1.5 The Reserved Matters application (reference: RES/MAL/17/00776) for the approval of access, appearance, landscaping, layout and scale on approved planning application OUT/MAL/14/01016 was approved by the Council at the North Western Area Planning Committee on 5 February 2018. In the officer report, it was confirmed that the Reserved Matters application RES/MAL/17/00776 did not include a detailed proposal for the commercial elements listed in the outline planning application OUT/MAL/14/01016 (*A village centre of up to 1000sqm of flexible commercial and community floor space*) as this element of the proposal would lead the delivery of the commercial space independently from that of the 75 dwellings.
- 3.1.6 At the North Western Area Planning Committee on 5 February 2018, Members had raised serious concerns regarding foul drainage flooding for the site and the surrounding area. It was suggested that the planning conditions imposed on OUT/MAL/14/01016, which the Council is currently dealing with under the Discharge of Condition application (reference: DET/MAL/17/05154) should be determined by the North Western Area Planning Committee. Following consultation with the Chief Executive, it was agreed that the Discharge of Conditions application DET/MAL/17/05154 to go before committee as requested by Members.

3.2 Conclusion

3.2.1 Based on the details submitted for the Discharge of Conditions application, the Council has considered that the following conditions can be discharged:-

Conditions imposed on outline planning application 14/01016/OUT	Discharged?
5	Yes
6	Yes
8	Yes
9	Yes
10	Not Required
12	Yes
13	Yes
14	Not Required
17	Yes
18	Yes
19	Yes
21	Yes
22	Yes
23	Yes
24	Yes
31	Yes
33	Yes

4. **MAIN RELEVANT POLICIES**

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

4.1 **National Planning Policy Framework 2012 including paragraphs:**

- Achieving Sustainable Development
- The Presumption in Favour of Sustainable Development
- Core Planning Principles
- Section 1 – Building a Strong, Competitive Economy
- Section 4 – Promoting Sustainable Transport
- Section 5 – Supporting High Quality Communication Infrastructure
- Section 6 – Delivering a Wide Choice of High Quality Homes
- Section 7 – Requiring Good Design
- Section 8 – Promoting Healthy Communities

4.2 **Maldon District Local Development Plan approved by the Secretary of State on 21 July 2017**

- S1 – Sustainable Development.
- S2 – Strategic Growth.
- S8 – Settlement Boundaries and the Countryside.
- D1 – Design and Quality and Built Environment.
- D2 – Climate Change and Environmental Impact of New Development.
- D4 – Renewable and Low Carbon Energy Generation.

- D5 – Flood Risk and Coastal Management.
- H1 – Affordable Housing.
- H2 – Housing Mix.
- H4 – Effective Use of Land.
- N1 – Green Infrastructure Network.
- N2 – Natural Environment and Biodiversity.
- N3 – Open Space, Sport and Leisure.
- T1 – Sustainable Transport.
- T2 – Accessibility.
- I1 – Infrastructure and Services.

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Guidance (NPPG)
- National Planning Policy Framework (NPPF)
- Essex Design Guide
- Car Parking Standards
- Maldon District Design Guide (MDDG)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The Reserved Matters application (RM) was approved at the North Western Area Committee on 5 February 2018. Prior to this RM application, outline planning permission OUT/MAL/14/01016 with all matters reserved for up to 75 dwellings. Accompanied with the outline planning permission was a signed and dated Section 106 legal agreement to provide contributions as listed above.

5.1.2 As part of the outline planning application approval OUT/MAL/14/01016, 34 planning conditions were imposed. Out of the 34 conditions, 21 conditions imposed on OUT/MAL/14/01016 were pre-commencement planning conditions (Conditions: 5, 6, 8, 9, 12, 13, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31 and 33), however the Applicant is seeking to discharge 17 of the planning conditions imposed under this current DET/MAL/17/05154 only (Conditions: 5, 6, 8, 9, 10, 12, 13, 14, 17, 18, 19, 21, 22, 23, 24, 31 and 33). These planning conditions are listed below and summarised in Section 3.2.1 of this report. The four planning conditions that they Applicant are not seeking to discharge under this current DET/MAL/17/05154 relates to contamination and lighting strategy for the site (Conditions 20, 25, 26 and 27) and will need to be dealt with by a subsequent Discharge of Condition application. Conditions 7, 11, 15 and 16 stipulated that details in relation to Hard and Soft Landscaping; Surface Water Drainage Scheme Specification, Details of Internal Footways; and Car Parking Provisions required details to be incorporated into the submission that accompanied the Reserved Matters application and was clearly shown within the plans approved under the Reserved Matters application RES/MAL/17/00776.

Condition 5 of OUT/MAL/14/01016 states:-

- 5.1.4 *'No development shall take place until details including samples of all materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved'*
- 5.1.5 As part of the Discharge of Condition application (DET/MAL/17/05154), the Applicant has submitted a Materials Plan (Drawing No: 745. 204.06 dated 4.12.2017). It is proposed that the dwellings and associated garages will be constructed using the external materials as listed below:-
- Brick: Red Multi (Wienerberger Colorado Red Multi or similar)
 - Brick: Yellow (Wienerberger Arizona Yellow or similar)
 - White Boarding (HardiePlank Light Mist or similar)
 - Render (Weber Monocouche Chalk or similar)
 - Tile: Red Plain Tile (Redland Duoplain Rustic Brown)
 - Tile: Grey Plain Tile (Redland Richmond 10)
 - Facia and Soffit - White UPVC
 - Rainwater Goods - Black UPVC
 - Front Doors – Black
 - Garage Doors – Black
 - Windows – White UPVC
 - Block Paving – Marshalls Brindle / Marshalls Natural
- 5.1.6 The proposed external materials are considered to complement each other and will result in a holistic development of an acceptable appearance. The external materials listed above are therefore considered acceptable and therefore Condition 5 of outline planning application OUT/MAL/14/01016 can be discharged.

Condition 6 of OUT/MAL/14/01016 states:-

- 5.1.7 *'No development shall commence until details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers have been submitted to and approved in writing by the local planning authority. The screening as approved shall be constructed prior to the first use/occupation of the development to which it relates and be retained as such thereafter'*
- 5.1.8 The External Works Plan (Drawing No: 745.231.04 dated 4.12.2017) submitted by the Applicant shows the treatment of all boundaries within the site. For private amenity spaces, the blue lines on the plan depicts 1.8 metre high close boarded fences. For Plots 1, 3, 7, 23, 26, 27, 29, 30, 37, 38, 41, 46, 49, 61 and 63, the orange lines indicate that a 1.8 metre high screen wall (brick to match adjacent dwelling) to be erected and would separate gardens from highways within the site. The purple lines show a 0.45 metre high timber knee rail fence with associated maintenance access gate. The maintenance gates as shown on Drawing No: JBA 04/176-DT6 dated March 2007 shows the access gates to be 0.45 metre in height.

5.1.9 The boundary treatment as shown on Drawing No: 745.231.04 dated 4.12.2017 are considered acceptable. It is therefore advised that Condition 6 of outline planning application OUT/MAL/14/01016 can be discharged.

Condition 8 of OUT/MAL/14/01016 states:-

5.1.10 *'No trees within the site shall be felled, cut back, damaged or removed, unless as shown on the approved plans or as otherwise first agreed in writing with the local planning authority. No development shall commence until information has been submitted and approved in writing by the Local Planning Authority in accordance with the requirements of BS5837:2012 in relation to tree retention and protection as follows:*

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

No development shall commence until fencing and ground protection to protect the trees shall be erected, details to be submitted and approved as per BS5837:2012, and ground protection has been erected, details of which shall have been submitted to the local planning authority for written approval. The ground protection shall be laid as per the Landscape and Arboriculture Assessment in accordance with British Standard BS5837:2012 (Trees in relation to construction) unless otherwise agreed in writing. The protective fencing and ground protection shall be erected before the commencement of any clearing, demolition and building operations and shall be retained until all equipment, machinery and surplus materials have been removed from the site. If within five years from the completion of the development an existing tree is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, a replacement tree shall be planted within the site of such species and size and shall be planted at such time, as specified in writing by the local planning authority'

5.1.11 Based on the Arboricultural Method Statement prepared by James Blake Associates Ltd dated 30 November 2017 (reference: JBA 17/005 AR02 Rev A), the Tree Officer has assessed the details submitted and advised that the Arboricultural Report satisfactorily identifies the constraints offered by the trees and the Arboricultural Method satisfactorily demonstrates how the trees will be protected.

5.1.12 The Tree Officer has advised that details of an Arboricultural Supervision Schedule and a retained arborist should be provided prior to works commencing. This element of tree protection has been secured by virtue of planning condition 4 which was imposed on RES/MAL/17/00776 which was approved at the North Western Area Planning Committee on 5 February 2018.

5.1.13 Therefore it is considered that Condition 8 of outline planning application OUT/MAL/14/01016 can be discharged.

Condition 9 of OUT/MAL/14/01016 states:-

- 5.1.14 *'No hedges within the site shall be removed, cut back in any way, or damaged, except as shown on the approved plans or otherwise as first agreed in writing with the local planning authority. No development shall commence until fencing/ground protection to protect the hedges/shrubs to be retained has been erected in accordance with BS5837:2012, details of which shall have been submitted to the local planning authority for written approval. The ground protection shall be laid as per the Landscape and Arboriculture Assessment in accordance with British Standard 5837:2012 (Trees in relation to construction) unless otherwise agreed in writing. The protective fencing shall be erected before the commencement of any clearing, demolition and building operations and shall be retained until all equipment, machinery and surplus materials have been removed from the site. The protective fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced protection zone nothing shall be stored or placed, no fires lit, no vehicle shall gain access, ground levels shall not be altered, no excavation shall be made and no structure shall be erected, unless otherwise first agreed in writing with the local planning authority. If within five years from the completion of the development a retained shrub or hedge is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, a replacement shrub or hedge shall be planted within the site of such species and size and shall be planted at such time, as specified in writing by the local planning authority'*
- 5.1.15 Details for the protection of the hedges have been submitted and formed a part of the Arboricultural Method Statement prepared by James Blake Associates Ltd dated 30 November 2017 (reference: JBA 17/005 AR02 Rev A), the Tree Officer has assessed the details submitted and advised that the Arboricultural Report satisfactorily identifies the constraints offered by the hedges and the Arboricultural Method Statement satisfactorily demonstrates how the hedges will be protected.
- 5.1.16 The Tree Officer has advised that details of an Arboricultural Supervision Schedule and a retained arborist should be provided prior to works commencing. This element of hedge protection and associated soft landscaping has been secured by virtue of planning condition 4 which was imposed on RES/MAL/17/00776 which was approved at the North Western Area Planning Committee on 5 February 2018.
- 5.1.17 Therefore it is considered that Condition 9 of outline planning application OUT/MAL/14/01016 can be discharged.

Condition 10 of OUT/MAL/14/01016 states:-

- 5.1.18 *'The development shall be undertaken in accordance with the terms and specifications contained within the Ecology Reports which are attached to and forms part of this permission: Extended Phase 1 Habitat Survey ref MH234 dated 5 February 2014 and additional letter dated 14th May 2014, reference MH234-01, both by T4 Ecology Ltd, unless otherwise agreed in writing by the local planning authority'*.
- 5.1.19 While the Applicant has listed Condition 10 as a condition to be discharged, it is noted that the wording of this condition does not require the Applicant to submit

further information to the Council for consideration providing that the development will be carried out in with the terms and specifications contained within the Ecology Reports which were attached to the outline planning application OUT/MAL/14/01016 (Extended Phase 1 Habitat Survey ref MH234 dated 5 February 2014 and additional letter dated 14th May 2014, reference MH234-01, both by T4 Ecology Ltd). It is therefore considered that this condition cannot be discharged.

Condition 12 of OUT/MAL/14/01016 states:-

5.1.20 *'No development shall commence until details of who shall be responsible for the maintenance of the surface water drainage system in perpetuity have been submitted to and approved in writing by the Local Planning Authority. The management of the surface water drainage system shall accord with the approved details thereafter'*

5.1.21 As part of the maintenance of the surface water drainage system, the Applicant has submitted the following information to the Council for consideration:-

Surface Water Strategy:

'As part of the planning permission for the development at Land West of Fambridge Road, North Fambridge a surface water drainage strategy is to be progressed based on sustainable drainage principles.

The surface water drainage strategy is to be produced to cater for surface water run off generated up to and including the one in 100 year storm event.

The surface water strategy consists of permeable paving to areas of hard standing which includes private drives, parking courts and driveways. Storm water runoff from dwellings will be drained via cellular soakaway tanks where infiltration is feasible.

A positive connection will be made to the existing surface water network with a flow control system in place to limit the peak flows.

Any surface water that cannot exit the site in storm events will be attenuated on site via attenuation basins within the public open space and village green areas.'

Surface Water Management:

5.1.22 *'The main surface water piped network will be run within the adoptable highway on site and be offered to Anglian Water for adoption under a Section 104. The drainage will be built to the standards required within Sewers for Adoption 6th Edition. All maintenance for these elements of the surface water system will be the responsibility of David Wilson Homes (the Applicant) until such times as the network is adopted after which all maintenance obligations will transfer to Anglian Water.*

Area of permeable paving to private drives, parking courts and driveways will be privately conveyed and the maintenance of these areas will be transferred accordingly.

The subsequent infiltration tanks and attenuation basins within the public open space areas will be transferred to the private management company along with relevant maintenance obligations.'

5.1.23 Based on the information submitted, Essex County Council (Lead Local Flood Authority LLLFA) has assessed the Flood Risk Assessment and the associated documents which accompanied the planning application, and has no objection in relation to the principle of the maintenance of the surface water drainage system. Condition 12 of outline planning application can therefore be discharged.

Condition 13 of OUT/MAL/14/01016 states:-

5.1.24 *'No development approved by this permission shall be commenced until a scheme for the improvement of the existing foul and surface water drainage system has been submitted to and approved in writing by the local planning authority. The scheme needs to set out the phasing of the development in terms of dwellings built and occupied alongside the foul and surface water system improvements needed. The scheme shall be implemented as approved. No occupation of dwellings approved by this permission shall occur until each phase of the scheme for improvement of the existing foul and surface water drainage system has been completed and confirmation obtained of available permitted capacity in the network and at the treatment works'*

5.1.25 To discharge the above planning condition, the Applicant has submitted the following information:-

- Suds Strategy Layout (Drawing No: 307 Suds Strategy Layout Revision P3) dated 12 July 2017
- Foul Drainage Strategy ((Drawing No: 308 Foul Drainage Strategy Revision P2) dated 7 July 2017
- Drainage Statement Site A (132915-R3 (0)) dated July 2017
- Site A SUDS Hydraulic Modelling calculations (132915-R5(00)) dated July 2017

Foul Drainage

5.1.26 In January 2014 a joint Drainage Position Statement issued by The Environment Agency, Anglian Water Services (AWS) and Essex County Council SUDS Team in response to a consultation from Maldon District Council concerning the availability of infrastructure capacity in the Latchingdon Waste Water Treatment Works catchment to serve 800 new homes. This consultation included the 105 homes on the North Fambridge sites, comprising this site and the one at nearby Manor Farm. In summary, this statement concluded that the additional wastewater from 800 homes could not be treated at Latchingdon.

5.1.27 Further assessment was carried out in 2015 on the existing sewers by AWS and it was understood that the reduced number of dwellings, from 800 to 105, could be mitigated by providing storage capacity on site (and with some local additional storage at the nearby

Avenue Pumping Station) to ensure that the additional waste water would only be discharged at times of day when there is capacity in the sewer network. During any times of day when the sewer flows reach their peak level, the waste would be stored there, until the peak flow levels fall to an acceptable level.

Mitigation Works

- 5.1.28 The Development Impact Assessment (DIA) considered the site specific implications of collecting and treating the new flows from this site and the associated Manor Farm development. It concluded that the potential adverse impact of the new waste water flows could be mitigated by a combination of onsite and offsite measures. In addition, no properties on this site could be connected to the sewer until the on and offsite mitigation are in place.
- 5.1.29 It is proposed that a new on-site pumping station will be provided with upstream below ground tanks with a capacity of 68m³ to store the wastewater until it is pumped to the Avenue Road Pumping Station, but only at the times of day when there is capacity in the existing sewer network. Suitable times for pumping will be monitored using Real Time Controls (RTC) which will remotely sense flows in the downstream sewer, which will trigger the pumped discharge, but only when capacity is available. Similarly, outside the site curtilage at Avenue Road, some local additional underground retention storage (33m³) will be provided to hold the waste at the pumping station for this site and Manor Farm (RES/MAL/17/00766 and DET/MAL/17/05142), before it can be pumped away, via the sewer under Fambridge Road for recycling at Latchingdon Sewage Works, when the peak flow levels fall to an acceptable level. If the existing sewer network capacity is restricted for an extended period, the storage capacity provided would be sufficient to store the average hourly flow from the development (dry weather flow) for up to 35 hours. However if the tanks fill to their capacity another form off disposal would be required e.g. tankering off site.

Maintenance

- 5.1.30 The off-site works at Avenue Road will be funded by the developer using the Sewer Requisition Procedure under Section 98 of the Water industry Act. Anglian Water will design and construct these works. The on-site works will be designed and constructed by the developer in accordance with details that will be approved by Anglian Water under Section 104 of the Water Industry Act. Anglian Water will supervise the works to ensure that they are constructed in accordance with their specification.
- 5.1.31 It has been confirmed that after the works are satisfactorily completed and a twelve month maintenance period has elapsed, the on-site works, including the tanks and pumps, will be operated and maintained by Anglian Water along with the Avenue Road pumping station and the downstream infrastructure which connect to Latchingdon.

Surface Water Drainage

- 5.1.32 With regard to the surface water drainage, it has been noted that there have been surface water flooding incidents in North Fambridge, however these are not due to flooding from rivers but the low permeability of the underlying soils in the area can lead to uncontrolled surface water run-off from undeveloped agricultural land during more extreme rainfall events, particularly in circumstances where the catchment is already saturated. This could cause ponding in low-lying areas if the ditches and watercourses are not maintained to permit this water to flow freely downstream into the river system. It is the riparian owners' responsibility, under the scrutiny of the Lead Local Flood Authority (Essex County Council), to clear any blockages of these ordinary watercourses. In this case the main outfall from the site is via the culvert

under Fambridge Road in the south east corner of the site, which is almost completely blocked.

- 5.1.33 The sustainable drainage strategy for this site would include a mix of interconnected drainage features that include garden soakaways, permeable paving filter drains, swales, wetland and infiltration/attenuation basins. The discharge from these features will be controlled near the point where it flows into the existing culvert under Fambridge Road. The control feature will be a vortex flow device e.g. Hydrobrake. Vortex controls provide a reliable low maintenance flow management mechanism because they have no moving parts and they are designed to minimise the risk of blockages. Through natural filtration, this system will also enhance the quality of water that flows from the site and it will enhance the value of the amenity land within the development.

Maintenance

- 5.1.34 The upstream on-site drainage features will be suitable for adoption and future maintenance by Anglian Water Services. However, the downstream features within the eastern amenity space will be managed in perpetuity by a residents' management company. This body will also maintain the landscaping in this area of the site.

Conclusion

- 5.1.35 Based on the above, the Applicant has concluded that the Drainage Statement Site A (132915-R3 (0)) dated July 2017 has demonstrated that a robust foul drainage impact mitigation strategy has been agreed with the Anglian Water Services, which is the drainage authority responsible for the conveyance and treatment of wastewater flows. This strategy will include both on-site and off-site storage and a real time control system to ensure that there will be no increase in foul sewer flood risk due to the development. The mitigation scheme must be implemented before any new properties are occupied. In addition, a sustainable surface water drainage strategy has been agreed in principle with the Lead Local Flood Authority (LLFA, Essex County Council) and the Environment Agency. This drainage strategy will reduce the pre-development risk of flooding to the roads and downstream properties by restricting the post-development discharge to the average annual flow rate and by removing the blockage from the existing culvert.

Assessment

- 5.1.36 The latest consultation responses from Anglian Water Services, the Environment Agency, Essex Wildlife Trust and Natural England are included at Appendix 1 to this committee report, but the overall assessment will be discussed below.

Anglian Water Services (AWS)

- 5.1.37 As set out within the latest correspondence from Anglian Water Services dated 14 March 2018, it has been considered that the foul and surface water drainage scheme is considered to be acceptable. Moreover, they are satisfied that the phasing of development is acceptable.
- 5.1.38 AWS have worked with the developer to ensure a drainage strategy has been produced which ensures that no detriment is caused to the existing operational performance by the flows from the proposed development.

5.1.39 As part of the Discharge of Condition application, the Applicant has provided Maldon District Council with a phasing strategy for the development. Anglian Water Services have also considered the Phasing and Delivery Plan dated 14 March 2018 which forms a part of Condition 13 and has considered that the phasing element of this condition has been met. The on-site and off-site drainage works will be undertaken in line and completed ahead of the first occupation. In relation to the Waste Water treatment, it is not Anglian Water's practice to seek to hold the developer liable through the planning system for the funding of any infrastructure upgrades to water recycling centres (WRC) or to solve existing issues. Investment in WRC is triggered by a number of risks, including growth and regulatory changes and process deterioration. The growth element of the future risk is known, therefore AWS are satisfied that this element of the condition can be discharged as invest prioritisation has commenced.

Habitat Regulations Assessment

5.1.40 Based on the specialist advice from Anglian Water Services, the Local Planning Authority has been able to undertake a Habitat Regulations Assessment and conclude that the proposed development would not be likely to have a significant effect on the SSSI.

Environment Agency (EA)

5.1.41 The input of Anglian Water Services (AWS) and the outcome of the Habitat Regulations Assessment have been acknowledged by the Environment Agency. In their most recent submission dated 19 April 2018, copy attached as Appendix 1 at the back of this report, EA has accepted that AWS has confirmed that the development at land to the west of Fambridge Road and Manor Farm, The Avenue will have no significant impact on the performance of the foul water sewer system. This is because the foul water flow from development on land to the west of Fambridge Road site will be controlled and only discharged when there is sufficient capacity in the network and underground storage will be installed to hold back foul water at times of high flow. In terms of foul water flow from the development at Manor Farm, it is understood that this can be connected by gravity.

Natural England and Essex Wildlife Trust

5.1.42 Concerns were raised to the proposals by Natural England (NE) and Essex Wildlife Trust (EWT) on the grounds that the development of the site could cause water pollution and has been identified as a potential impact to the sensitive area. These concerns were initially raised prior to the most recent comments from Anglian Water Services. Both NE and EWT have been given opportunity to comment further following the most recent input by AWS.

5.1.43 In NE's latest submissions, set out that while water pollution has been identified as a potential impact to the sensitive area, further discussions was held between NE and the Environment Agency to confirm that the agreed sewerage network solution for the development presents no additional risks to the designated sites above the current situation. Furthermore, the Environment Agency has advised that the implementation of the foul water strategy for the development will inevitably result in the issue of a new discharge permit for Latchingdon Water Recycling Centre (WRC); the possible effects on the designated sites will be assessed during the determination of the permit which will reflect the determination of this application and include appropriate conditions to ensure there is no unacceptable impact to the designated sites.

- 5.1.44 Essex Wildlife Trust (EWT) maintain their objection and will only remove their objection if the wordings contained within the S106 legal agreement, appended to the outline planning application OUT/MAL/14/01016, was amended. The S106 legal agreement was signed and dated on 18 March 2016 which sets out Ecological Contribution to include the following:- To secure a sum of £44,025, to include leaflets, installation of information boards/signs, improvement to the existing playfield/playground, security fence to the public footpath and the monthly monitoring of birds (for a period of five years).
- 5.1.45 EWT wish the words: ‘playfield/playground’ to be omitted and request an additional financial contribution of £40,000 (for reed beds and protective fencing) to be included in the S106 legal agreement. It should be noted that a Discharge of Condition application is not an appropriate place to seek a Section 106 agreement or the modification of the existing Section 106 legal agreement. In this regard, it is considered that it would be unreasonable for the Local Planning Authority to make the requests that have been suggested by Essex Wildlife Trust. Moreover, it should be noted that Essex Wildlife Trust are not a statutory consultee and as such, whilst their advice is given weight, it cannot be afforded the same weight as advice from Natural England who are a statutory undertaker.

Conclusion

- 5.1.46 On the basis of the advice received from AWS, it is considered that the surface and foul water drainage scheme is adequate and following the advice of the EA and NE, it is considered that the drainage solutions would not have a harmful impact on designated, protected habitats. Therefore Condition 13 of outline planning permission OUT/MAL/14/01016 can be discharged.

Condition 14 of OUT/MAL/14/01016 states:-

- 5.1.47 *‘Prior to commencement of the development, the road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 70 metres to the north and south, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times’*
- 5.1.48 As part of the outline planning permission OUT/MAL/14/01016, the point of access to the site off Fambridge Road, as presented within the Transport Assessment and Transport Addendum, both prepared by Cottee Transport Planning on February 2014, was assessed by the ECC Highways. The wording of the condition from ECC Highways does not require the Applicant to submit further details for Condition 14 to be discharged. The case officer has had discussions with ECC Highways on 19 February 2018 and it was advised that the Applicant now needs to implement the works in line with the original submission. Therefore this condition cannot be discharged.

Condition 17 of OUT/MAL/14/01016 states:-

- 5.1.49 *‘Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted*

to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times'

5.1.50 In an email correspondence dated 20 December 2017, ECC Highway Authority has confirmed that they have assessed the following information submitted by the Applicant with regard to details showing the means to prevent the discharge of surface water from the development onto the highway:-

- 13795 - 307-P3 SuDS Strategy Layout (RSK)
- 132915-R3(0) Drainage Statement Site A (RSK)
- 132915-R5(00) SuDS Calculations Site A (RSK)
- 132915-R1(0)-FRA-Site A Flood Risk Assessment & Surface Water Drainage Strategy (RSK)

5.1.51 Based on the information submitted, the Highway Authority has no adverse comments to make with regard to the discharge of Condition 17. In this respect, it is considered that this condition can be discharged.

Condition 18 of OUT/MAL/14/01016 states:-

5.1.52 *'Prior to the commencement of the development detailed drawings showing the finished ground and finished floor levels of the development in relation to the levels of the surrounding area shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the scheme as approved'*

5.1.53 The Site Levels Layout plan submitted (Drawing No: 132915-301-P4 dated 04.12.2017 prepared by RSK) shows the finished ground and finished floor levels of the development in relation to the levels of the surrounding area. The height of the dwellinghouses are considered to be fairly consistent in height and it is evident that the site level is higher to the west and gradually lowers to the east of the site. The proposed development would reflect this topography and therefore Condition 18 of the outline planning application can be discharged.

Condition 19 of OUT/MAL/14/01016 states:-

5.1.54 *'No development shall commence until details have been submitted to and approved in writing by the local planning authority of an on-site Construction Management Plan detailing:*

- *Phasing of the development.*
- *Times during which all construction activities will take place.*
- *Measures to manage noise and dust emissions during construction.*
- *Protective fencing to secure the site.*
- *Construction site access details*
- *The parking of vehicles of site operatives and visitors*
- *Loading and unloading of plant and materials*
- *Storage of plant and materials used in constructing the development*

- *Wheel and underbody washing facilities*
- *Measures to prevent the tracking out of mud and debris onto the highway*

All approved measures shall be put in place prior to development commencing on site and all subsequent construction of the development shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the local planning authority’.

5.1.55 In an email correspondence dated 20 December 2017, ECC Highway Authority has confirmed that they have assessed the Construction Management Plan dated July 2017 (prepared by David Wilson Homes) and have no adverse comments to make with regard to the discharge of Condition 19, but has raised concerns in relation to the construction access proposed to the south of the site along Crouch Road which is a private road. It was advised that the Applicant should demonstrate to the satisfaction of the Council that the Applicants have a legal right of way over it for the purposes of construction. The construction access via Crouch Road was discussed in Section 5.4.3 of the Reserved Matters application (RES/MAL/17/00776) that this was a civil matter for the Applicant and other interested parties to resolve as it falls outside the planning remit. If third party interest prevents use, a new Construction Management Plan may be required under the terms of a new application.

5.1.56 Condition 19 of outline planning application OUT/MAL/14/01016 can therefore be discharged.

Condition 21 of OUT/MAL/14/01016 states:-

5.1.57 *‘Prior to the commencement of the development, including any clearance works, a comprehensive Reptile Mitigation Strategy shall be submitted to, and approved in writing by, the local planning authority. The development shall be carried out and completed in accordance with the approved mitigation scheme’*

5.1.58 To discharge Condition 21, the Applicant had submitted an Ecological Method Statement prepared by JBA 17/005 HW/CA/KS/PL. The Coast and Countryside Officer has assessed the submitted statement and considers that it is sufficient to discharge Condition 21 ‘Reptile Mitigation Strategy’ but the works would need to be carried out in conjunction with Condition 10 ‘Ecological Method Statement’ and any recommendations in the original Ecological Survey (Extended Phase 1 Habitat Survey ref MH234 dated 5 February 2014 and additional letter dated 14th May 2014, reference MH234-01, both by T4 Ecology Ltd).

5.1.59 It is therefore considered that Condition 21 of outline planning application OUT/MAL/14/01016 can be discharged.

Condition 22 of OUT/MAL/14/01016 states:-

5.1.60 *‘Prior to the commencement of development details of an on-site mitigation and management strategy relating to the design of the green space for recreational activity purposes shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details’*

5.1.61 For this condition, the Applicant has submitted the following information for consideration:-

- JBA 17/005-01 Rev I Detailed Soft Landscape Proposals for POS James Blake Associates
- JBA 17/005-02 Rev I Detailed Soft Landscape Proposals for POS James Blake Associates
- JBA 17/005-03 Rev I Detailed Soft Landscape Proposals for POS James Blake Associates
- JBA 17/005-04 Rev I Detailed Soft Landscape Proposals for POS James Blake Associates
- JBA 17/005-05 Rev I Detailed Soft Landscape Proposals for POS James Blake Associates
- JBA 17/005-SK01 Rev E - Landscape Masterplan for Plots and POS dated December 2017
- Addendum Statement; Recreation facilities provision within green infrastructure areas at 'Land West of Fambridge' and 'Manor Farm, Fambridge' James Blake Associates

5.1.62 The Coast and Countryside Officer has assessed the submitted information and is satisfied that the recreation land for the site is more extensive than commonly seen with housing developments of a similar size. It is considered that this would offer the opportunity for a variety of passive and more active recreation within the boundary of the site which helps to take the pressure off the adjacent Special Protection Area (SPA) and therefore would not result in any increased erosion of biodiversity or ecological value from the provision of this new development.

5.1.63 Further by ensuring that the open spaces are laid out in a manner that is sympathetic and reflective of the wider landscape and ecological characteristics, the green infrastructure would provide a valuable habitat for flora and fauna and one that is free from agricultural practices, such as chemicals / pesticides, which will ensure that sites like this act as a reservoir for invertebrates in years to come.

5.1.64 During dialogue with Natural England, it has been highlighted that Condition 22 was imposed due to the fact that a Habitat Regulations Assessment (HRA) could not be undertaken at the time of the outline application. Following the receipt of input from consultees, a HRA was prepared by the Council on 22 March 2018 and was subsequently forwarded onto Natural England for consideration. In NE's consultation response dated 19 April 2018, NE has acknowledged that On-Site measures have been considered and proposed which has included a number of open spaces designed and managed in the long-term to maximise opportunities for day-to-day recreational activity on site, including attractive circular walks etc. NE is satisfied with this aspect of the mitigation package and considers that it will help minimise the need for new residents to leave the development site on a routine basis to walk their dogs etc. in and around the nearby designated sites.

5.1.65 With regards to Off-Site measures NE is largely satisfied with this aspect of the mitigation package and considers that the financial contribution towards visitor management (£44,025) will help make the nearby designated sites more resilient to the predicted increase in recreational pressure. These elements have already been secured through the S106 legal agreement dated 18 March 2016.

5.1.66 Based on the information provided in support of the application, Natural England's view is that the proposal is unlikely to have a significant effect on the Crouch and Roach Estuaries Special Protection Area (SPA) and Ramsar site or Essex Estuaries Special Area of Conservation (SAC). They also consider that the proposal is unlikely to adversely affect the underpinning Crouch and Roach Estuaries Site of Special Scientific Interest (SSSI).

NE therefore has no objection to the discharging of the above condition.

5.1.67 Condition 22 of outline planning application OUT/MAL/14/01016 can be discharged.

Condition 23 of OUT/MAL/14/01016 states:-

5.1.68 *'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'*

5.1.69 The Historic Environment Officer at Essex County Council has noted that the excavation has been completed for this site and a post-excavation and publication programme has been put in place and has advised for this condition to be discharged. Based on this advice, it is concluded that Condition 23 of outline planning application OUT/MAL/14/01016 to be discharged.

Condition 24 of OUT/MAL/14/01016 states:-

5.1.70 *'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'*

5.1.71 The Historic Environment Officer at Essex County Council has noted that the excavation has been completed for this site and a post-excavation and publication programme has been put in place and has also advised for this condition to be discharged. It is concluded that Condition 24 of outline planning application OUT/MAL/14/01016 to be discharged.

Condition 31 of OUT/MAL/14/01016 states:-

5.1.72 *'No development shall commence until a detailed wastewater strategy has been submitted to and approved in writing by the local planning authority. The development shall be carried out in complete accordance with the approved details and retained as such thereafter'*

- 5.1.73 Condition 31 in relation to wastewater strategy was recommended by Anglian Water Services (AWS) in the 2014 outline planning application. Condition 31 is caveated by Condition 32 which reads *'pursuant to condition 31 above, no dwelling hereby approved, or approved as part of the reserved matters referred to in condition 1 of this permission, shall be occupied until the wastewater strategy has been carried out in complete accordance with the approved details'*.
- 5.1.74 For Condition 31, the Applicant has submitted the following documents to the Council for consideration:-
- Drainage Statement A (132915-R3 (0))
- 5.1.75 Based on the document submitted by the Applicant, it was concluded that the Drainage Statement has demonstrated that a robust foul drainage impact mitigation strategy has been agreed with the Anglian Water, which is the drainage authority responsible for the conveyance and treatment of wastewater flows. This strategy will include both on-site and off-site storage and a real time control system to ensure that there will be no increase in foul sewer flood risk due to the development.
- 5.1.76 The Applicant acknowledges that the mitigation scheme must be implemented before any new properties are occupied. In addition, a sustainable surface water drainage strategy has been agreed in principle with the Lead Local Flood Authority (LLFA, Essex County Council) and the Environment Agency. This drainage strategy will reduce the pre-development risk of flooding to the roads and downstream properties by restricting the post-development discharge to the average annual flow rate and by removing the blockage from the existing culver.
- 5.1.77 The Environment Agency (EA dated 12 January 2018) has noted that this wastewater strategy condition was recommended by Anglian Water Services and therefore expects this to take into account the permitted capacity position at Latchingdon treatment works. As stated above Condition 31 is caveated by Condition 32 which requires physical works to have been carried out and being operational prior to the dwellings being occupied.
- 5.1.78 A consultation response was received by Anglian Water Services (AWS) dated 14 March 2018 which clarifies that a wastewater strategy is referring to the Water Recycling Centres (WRC) and AWS are responsible for all and any upgrades to the WRC. Anglian Water Services have advised that it is not their practice to hold the developer liable through the planning system for the funding of any infrastructure upgrades to Water Recycling Centres (WRC). Investment in WRC is triggered by a number of risks, including growth and regulatory changes and process deterioration. The growth element of the future risk is known, therefore AWS are satisfied that the condition can be discharged as invest prioritisation has commenced. It is therefore advised that planning condition 31 can be discharged in this respect.

Condition 33 of OUT/MAL/14/01016 states:-

- 5.1.79 *'No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details and retained as such thereafter'*

- 5.1.80 Condition 33 in relation to foul water strategy was recommended by Anglian Water Services (AWS) in the 2014 outline planning application. Condition 33 is caveated by Condition 34 which reads *'pursuant to condition 33, no dwelling hereby approved, or approved as part of the reserved matters referred to in condition 1 of this permission, shall be occupied until the foul water strategy has been carried out in complete accordance with the approved details'*.
- 5.1.81 For Condition 33, the Applicant has submitted the following documents to the Council for consideration:-
- Foul Drainage Strategy – Drawing No: 308 Rev P5 dated 06.2017
 - Drainage Statement A (132915-R3 (0))
- 5.1.82 Based on the document submitted by the Applicant, it was concluded that the Drainage Statement has demonstrated that a robust foul drainage impact mitigation strategy has been agreed with the Anglian Water, which is the drainage authority responsible for the conveyance and treatment of wastewater flows. This strategy will include both on-site and off-site storage and a real time control system to ensure that there will be no increase in foul sewer flood risk due to the development.
- 5.1.83 The Applicant again acknowledges that the mitigation scheme must be implemented before any new properties are occupied. In addition, a sustainable surface water drainage strategy has been agreed in principle with the Lead Local Flood Authority (LLFA, Essex County Council) and the Environment Agency. This drainage strategy will reduce the pre-development risk of flooding to the roads and downstream properties by restricting the post-development discharge to the average annual flow rate and by removing the blockage from the existing culver.
- 5.1.84 The Environment Agency (EA dated 12 January 2018) has noted that this foul water strategy condition was recommended by Anglian Water Services and therefore expects this to take into account the permitted capacity position at Latchingdon treatment works. Condition 33 is caveated by Condition 34 which requires physical works to have been carried out and being operational prior to the dwellings being occupied.
- 5.1.85 A consultation response was received by Anglian Water Services dated 14 March 2018 stating that the purpose of the foul water drainage strategy is to establish a method of connecting the development flows without creating additional detriment to the operation of the sewerage pipes / system. In response to a pre-planning enquiry, AWS undertook a desktop assessment that identified a network reinforcement solution in support of the outline planning application. Following their achieving outline planning approval Barratt David Wilson Homes (BDW) approached AWS to carry out a detailed assessment of their proposed drainage strategy (including the new pumping station design) and of any potential detriment caused by their proposal. BDW entered into a S98 Underwriting Agreement with AWS that allowed this assessment to be completed to ensure that the required S98 works could be completed ahead of their first occupation.
- 5.1.86 This detailed analysis has provided an alternative, more reliable solution employing storage upstream of the connection point and discharge control on the development pumping station. This provides a more effective mitigation of the predicted-

additional risk posed by the development. The agreed foul water strategy employs a control on the development pumping station to ensure that the development only discharges when there is sufficient capacity within the foul water network. The development onsite drainage has been designed to provide sufficient storage capacity to accommodate flows while the discharge is inhibited.

- 5.1.87 Under the terms of the S98 agreement the onsite elements of the work will be completed by BDW and the offsite works will be completed by AWS. BDW will install additional storage within the development site. The discharge control will be installed by AWS under the S98 sewer requisition scheme and delivery of this off-site work will be programmed to coincide with the onsite works to ensure that they are completed ahead of the first occupation.
- 5.1.88 The onsite infrastructure and pumping station has been submitted to Anglian Water for adoption, under a Section 104 agreement. Anglian Water will adopt this infrastructure and will therefore operate, control and maintain said infrastructure. As the developer will provide the additional storage capacity to enable this strategy the foul water drainage conditions in respect of this site can be discharged. It is therefore advised that Condition 33 can be discharged in this respect.
- 5.1.89 Concerns were raised by EWT and NE, as discussed in relation to Conditions 13 and 22 above, it is considered that these concerns have been adequately addressed. It is noted that EWT still have reservations and wish for further measures to be put in place. However, it is considered that these requests are unnecessary and unreasonable and it is noted that Natural England has set out that the condition can be discharged. It is therefore recommended that Condition 33 of outline planning application OUT/MAL/14/01016 can be discharged.

Other Considerations

- 5.1.90 Letters of representation were received concerning the surface water and foul drainage for the site. As part of the Discharge of Conditions application, the Environment Agency, Anglian Water Services (AWS) and ECC SUDs Team were all consulted for their specialist advice. While it is noted that the local residents has suggested that the Surface Water SUDs should be managed by AWS or the Local Authority and not by a private management company, this element cannot be changed by the Council as this has already been agreed in the submitted legal agreement which has been signed and dated by all the relevant parties.

5 ANY RELEVANT SITE HISTORY

- **OUT/MAL/14/00186** - Outline planning application for up to 75 market and affordable dwellings, a village centre of up to 1,000 sq m of flexible commercial and community floor space and a 1.8ha village green and public open space. Refused: 11 August 2014
- **OUT/MAL/14/01016** - Outline planning application for up to 75 market and affordable dwellings, a village centre of up to 1,000 sq m of flexible commercial and community floor space, a 1.8ha village green and public open space. Approved: 18 March 2016
- **RES/MAL/17/00776** - Reserved matters application for the approval of access, appearance, landscaping, layout and scale on approved planning application **OUT/MAL/14/01016** (Outline planning application for up to 75

market and affordable dwellings, a village centre of up to 1,000sqm of flexible commercial and community floor space, a 1.8ha village green and public open space.) Approved: 6 February 2018.

6 CONSULTATIONS AND REPRESENTATIONS RECEIVED

6.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
N/A	N/A	N/A

6.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
ECC Highway Authority	Conditions 14, 17 and 19	Noted in the report
ECC Archaeology	Conditions 23 and 24	Noted in the report
Essex Wildlife Trust	Other Considerations	Noted in the report
ECC Sustainable Drainage Systems (SUDs)	Conditions 11 and 12	Noted in the report
Environment Agency	Conditions 13, 31 and 33	Noted in the report
Anglian Water Services	Conditions 13, 31 and 33	Noted in the report

6.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Tree Officer	Conditions 8 and 9	Noted in the report
Coast and Countryside Officer	Conditions 10, 21 and 22	Noted in the report

6.4 Representations received from Interested Parties

6.4.1 Letters were received **objecting** to the application from the following and the reasons for objection are summarised as set out in the table below:

- S A Cooper River View Cottage Brabant Road North Fambridge
- Mrs J L Cooper River View Cottage Brabant Road North Fambridge
- Mr K P Cooper River View Cottage Brabant Road North Fambridge

Objection Comment	Officer Response
<ul style="list-style-type: none"> • Anglian Water Services (AWS) says that there is insufficient capacity at Latchingdon WRC • The Environment Agency (EA) says that there is insufficient foul water capacity at Latchingdon WRC 	Noted in the report

Objection Comment	Officer Response
<ul style="list-style-type: none"> • Sewerage flooding incidents • AWS continues to ignore the residents • Holding tanks only provide 24hrs of storage where flood / storm conditions can last for several days – Holding tanks should have 72hrs of storage • Condition for waste water has not been complied with • SUDs should be managed by AWS or the Local Authority, not by a private management company • No street lighting details submitted 	

7 RECOMMENDATION

7.1 Conditions to be Discharged:-

Conditions	Discharged
5	Yes
6	Yes
8	Yes
9	Yes
12	Yes
13	Yes
17	Yes
18	Yes
19	Yes
21	Yes
22	Yes
23	Yes
24	Yes
31	Yes
33	Yes

7.2 Conditions that are not pre-commencement or need details to be agreed:-

10	Not required to be discharged
14	Not required to be discharged