

## OFFICER'S REPORT

<b>Application No:</b>	<b>19/00837/OUT</b>
<b>Location:</b>	Land Rear of 6 to 108 Mell Road, Tollesbury
<b>Proposal:</b>	Outline planning application with some matters reserved (Access only) for a residential development of up to 90 dwellings with public open space, landscaping, sustainable drainage systems and vehicular access point from Mell Road (following the demolition of no. 6 Mell Road). All matters reserved except for means of access.
<b>Consultation Expiry Date:</b>	06.09.2019
<b>Application Expiry Date:</b>	06.11.2019
<b>Parish Council Response:</b>	Object
<b>Case Officer:</b>	Devan Hearnah
<b>Recommendation:</b>	<b>REFUSE PLANNING PERMISSION</b>

### 1. SUMMARY

#### 1.1 Site Description

- 1.1.1 The application site is irregularly shaped and measures 4.42ha in area. It is located to the rear of Nos. 6 to 108 Mell Road, with the majority of the site being located outside of the defined settlement boundary of Tollesbury. The only areas of the site located within the settlement boundary are the two proposed access routes within the north of the site, measuring approximately 1040m<sup>2</sup> in total. The most northern, north western and eastern parts of the site abut the rear of dwellings on Mell Road. Most of the western boundary and the southern boundaries adjoin open fields, which are delineated by hedgerows.
- 1.1.2 The site is located in the countryside, defining the village setting, forming a transition point between the built-up area of the village of Tollesbury and the green landscape to the south of the village.
- 1.1.3 There is currently no vehicular access to the site, although it can be accessed on foot via the public footpath and fields to the south of the site from Mell Road. There is also a gated access between The Old Police House and No. 18 Mell Road, but this is currently fenced off at its most southern point.
- 1.1.4 To the south of the site is Public Right of Way (PRoW 263 10) that runs east west from Mell Road in the east to Church Street in the west.

#### 1.2 The Proposal

- 1.2.1 The proposal is outline in nature with all matters reserved, except for access and proposes the erection of a residential development of up to 90 dwellings, with associated public open space, landscaping, sustainable drainage systems (SUDs) and vehicular access point from Mell Road, which would require the demolition of No. 6 Mell Road.
- 1.2.2 In relation to the above it should be noted that the Town and Country Planning (Development Management Procedure) (England) Order 2015 defines access in relation to reserved matters as being:

*'the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where "site" means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made'*

- 1.2.3 It is also therefore, considered that the internal roads form part of consideration of this application.
- 1.2.4 The proposed development would be accessed from the southern side of Mell Road, which as detailed above requires the demolition of No. 6 Mell Road. Plan 7192-L-03 Rev K has been submitted which shows the access details to the site as does plan P19022-001D within Appendix D of the submitted Transport Statement. The plans show that an approximately 5.5m wide vehicle access will be provided to the northwest of the application site, with footpaths either side measuring approximately 1.6m in width, and a pedestrian access measuring approximately 5m in width will be provided between The Old Police House and No. 18 Mell Road.
- 1.2.5 It is noted that some of the submitted plans and documents show the cycle/pedestrian access route as an emergency access. However, at paragraph 8.2.7 of the Transport Assessment it is stated that the access should be restricted to a pedestrian/cycle connection only. Therefore, it has been considered in this way and not as an emergency access. Whilst some plans continue to show the access as an emergency access, access for emergency services is something that would be dealt with through other legislation at the Reserved Matters stage and therefore, does not have a significant bearing on the assessment of this application.
- 1.2.6 Within the site is a primary road which runs east to west and has three points running north to south, providing access to shared driveways. The plan also shows pedestrian/cycle links through the site and around an area of open spaces within the southwestern corner of the site.
- 1.2.7 The application is supported by a Planning Statement, stating that the 40% of the proposed development would be affordable housing (amounting to 36 dwellings), and that an area of open space measuring 1.59ha (36%) to the west of the site will include landscaping, recreational space, an equipped children's play area and a dog-walk route.
- 1.2.8 All the above proposed contributions/provisions would be subject to a separate to S106 agreement.
- 1.2.9 Although outline in nature, the application is supported by an illustrative plan showing the residential development expanding almost throughout the application site, with some landscape buffer planting onto the western and southern boundaries and individual tree planting within the site. The LEAP area has been shown on the western part of the open space and the attenuation area on the southeast corner. An indicative pedestrian/cycle route is proposed to run in a circular fashion around the open space to the southwest and through the centre of the site. The roads within the site would head from the main access to the east and would have secondary roads running north to south leading to private driveways to the rear of the site.

## 2. RELEVANT BACKGROUND AND PLANNING HISTORY

- 2.1 The relevant planning history is set out in the table below:

Application Number	Description	Decision
16/00583/FUL	Change of use from agricultural land to equestrian, the erection of a stable block with associated hard standing, fencing, vehicular access and access track.	Refused

## 3. CONSULTATIONS AND REPRESENTATIONS

- 3.1 Parish/ Town Council (summarised)

Name of Parish / Town Council	Comment	Officer Response
Tollesbury Parish Council	<b>Object</b> , proposal is contrary to the NPPF, the Maldon District Local Development Plan, and the	Comments are noted and addressed within the main body of the report.

Name of Parish / Town Council	Comment	Officer Response
	emerging Tollesbury Neighbourhood Plan.	

### 3.2 Statutory Consultees and Other Organisations (summarised)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Archaeology	<p>Proposal is located within an area recorded on the Historic Environment Record as containing aerial photographic evidence of enclosures (EHER 17194). The most recent photographs show a range of probable archaeological features across the site. They are likely to be pre-medieval in date. The desk-based assessment and heritage statement also identify the presence of archaeological deposits.</p> <p>Archaeological features are both fragile and irreplaceable and its recommended that a full archaeological condition is attached.</p>	Addressed at section 5.12 of this report.
Anglian Water Services	<p>There are assets owned by Anglian Water close to the development boundary that may affect the layout of the site.</p> <p>Foul drainage from the development is in the catchment of Tollesbury Water Recycling Centre that will have capacity to accept the flows.</p> <p>If the developer wishes to connect to Anglian Waters sewage network, then they should serve notice under Section 106 of the Water Industry Act 1991.</p> <p>The preferred method of surface water disposal would be through SuDS with connection to a sewer being the last option. The proposed methods of surface water management do not relate to Anglian Water managed assets and so comments on the suitability of the scheme cannot be made.</p> <p>The development will lead to unacceptable risk of flooding downstream. Therefore, Anglian Water should be engaged with at the earliest convenience.</p>	Addressed at section 5.9 of this report

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Lead Local Flood Authority - Sustainable Drainage	<p><b>Holding Objection</b></p> <ul style="list-style-type: none"> <li>- The calculations show that the whole site area of 4.42ha has been used to calculate greenfield runoff, rather than the 2.83ha developable area.</li> <li>- The preliminary storage calculations have been based on Qbar rate. Discharge rates should be limited to the 1 in 1-year greenfield runoff rate for all storm events up to and including the 1 in 100-year storm event plus 40% climate change. Alternatively, if restricting to the 1 in 1-year greenfield rate approach is not possible, discharge rates can be limited to a range of equivalent greenfield discharge rates. If the alternative approach is used, then an inclusion of long-term storage will be required.</li> </ul>	Addressed at section 5.9 of this report
Education	<p>A development of this size can generate the need for up to 8.1 Early Years and Childcare (EY&amp;C) places, 27 primary, and 18 secondary school places.</p> <p>Essex County Council's childcare sufficiency data (summer 2018) shows that there are two childcare providers for early years and childcare in the area (1 pre-school and 1 childminder) with no vacancies.</p> <p>There is insufficient provision within the ward to meet the demand created from the proposed development and therefore a financial contribution would be required towards creating the additional places, either within the Tollesbury ward or within a 3 miles radius from the development.</p> <p>A developer contribution of £141,118 is sought to mitigate the impact on local EY&amp;C provision, which would relate to 8.1 places at</p>	Addressed at section 5.12 of this report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>an estimated cost of £141,118 at April 2018 prices.</p> <p>It is anticipated that there will be sufficient primary school places to accommodate the development and so a contribution is not sought in this regard. The developer must ensure safe walking/cycle routes to the nearest primary school.</p> <p>The development falls within the priority admissions area of the Plume School in Maldon. Based on forecasts set out in the Essex School Organisation Service's Ten-Year Plan to meet demand for school places, a phased expansion of the Plume will be needed from 2022/23 onwards. The development would add to this need. The contribution sought is based on the formula established in the Essex County Council Developers' Guide to Infrastructure Contributions.</p> <p>A contribution of £417,852, at April 2018 prices, is sought for 18 places equating to £23, 214 per place.</p> <p>A secondary transport contribution is also requested at a cost of £90,630 (£5.30 per day x 190 (days in school year) x 5 (number of years sought)).</p> <p>If planning permission is granted it should be subject to a s106 seeking these contributions; if it is refused it should be included as a reason for refusal.</p>	
Essex County Fire and Rescue	<p>Unable to offer comment from the information provided, more detailed observations on access and facilities will be made at Building Regulation consultation stage.</p> <p>Additional water supplies for firefighting may be necessary.</p> <p>The installation of Automatic Water Suppression Systems (AWSS) should be considered as they can substantially reduce the risk to life and property loss.</p>	<p>Access safety is addressed at section 5.7 of this report. However, as stated by the consultee emergency access is dealt with under Building Regulations Legislation.</p>
Natural England	Site falls within a Zone of Influence (ZOL) for one or more of the	Addressed at section 5.10 of this report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>European Designated Sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Proposal would likely to have a significant effect on the sensitive interest features of these sites, through increased recreational pressure when considered in combination with other plans and projects.</p> <p>Development falls below that which Natural England would offer bespoke advice but the Local Planning Authority (LPA) must undertake a Habitats Regulation Assessment (HRA) to secure any necessary mitigation</p>	
Environment Agency	No response received at the time of writing this application	Noted – as the site is in Flood Zone 1 it is unlikely the Environment Agency would respond
Essex and Suffolk Water	No apparatus located in the development. No objection subject to compliance with Essex and Suffolk Water's requirements and consent is given on the condition that a water connection for the new dwellings is made onto their company network for revenue purposes.	Noted. This could be included as an informative.
Local Highway Authority	No objection subject to conditions relating to, a construction management plan, the implementation of the access arrangements and the provision of residential travel information packs.	Addressed at section 5.7 of this report.
Essex Wildlife Trust	Object on the basis of a loss of habitat for declining farmland bird species, lack of evidence to demonstrate a measurable net biodiversity gain.	Addressed at section 5.11 of this report.
RSPB	Object on the basis of sensitive information.	Addressed at section 5.11 of this report.

### 3.3 Internal Consultees (summarised)

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	The nearest designated heritage asset to the application site Monk's House, a grade II listed building. The proposal would have a negligible impact on the setting of the listed building due to the distance and intervening vegetation and buildings which separate the sites. There	Addressed at section 5.5 of this report.

Name of Internal Consultee	Comment	Officer Response
	<p>would be no notable impacts on any important views of the listed building. The development would have very little, if any, impact on the ability to experience and appreciate the listed buildings significance. Nor would the development harm the significance of any other designated heritage asset.</p>	
Emergency Planner	<p>The application site falls within Flood Zone 1 and so the risk is much reduced in the development area. In terms of emergency evacuation, should a Severe Flood Warning be issued consideration would be given by the emergency services to evacuate residents in the affected area only. This decision would be with a warning (up to 12 hours) so an orderly evacuation could be undertaken.</p> <p>Consideration of risk from the Bradwell Nuclear site indicates that there is no need for evacuation plans to exist now the site is in care and maintenance. Even if the site were in full operation evacuation was limited to a very close proximity to the station itself and not as far as Tollesbury.</p> <p>It is not reasonable to draft contingency plans against unknown threats. From an emergency planning perspective there is no objection.</p>	<p>Noted. Based on these comments it is not considered that the development would result in detrimental harm to evacuation procedures in the event of an emergency.</p>
Environmental Health	<p>A phase 2 intrusive investigation can be conditioned in accordance with the content of the recommendations made at section 7.2 of the LK Consult Ltd Phase 1 Preliminary Risk Assessment (April 2019, LKC 16 1073).</p> <p>The Wardell Armstrong noise screening assessment (20<sup>th</sup> May 2019) has detailed that a noise assessment is not necessary in this instance. These findings are concurred with.</p> <p>The findings of the Wardell Armstrong Air Quality Assessment (July 2019) identifies that the proposal will not lead to air quality deterioration to any level of significance. However, a condition will be required securing careful management during construction works to prevent undue impact to existing residents.</p>	<p>This is addressed at section 5.12 of this report.</p> <p>This is addressed at section 5.8 of this report</p> <p>This is addressed at section 5.8 of this report.</p>

Name of Internal Consultee	Comment	Officer Response
Housing	<p>Whilst the Applicant has stated in their application that they will provide 36 Intermediate residential dwellings. This does not accord with the recommendations of the Strategic Housing Market Assessment with regards to affordable tenure mix and so the application is not supported.</p>	<p>Addressed at section 5.2 of this report</p>
Urban Design	<p><b>Object</b> - The Council can demonstrate a 6.34 years' worth of housing supply using the 5% buffer.</p> <p>Strategic growth including infrastructure is currently being delivered in Maldon and Heybridge in accordance with Policy S2 and Policies S3 Placemaking, S4 Maldon and Heybridge Strategic Growth.</p> <p>Strategic growth including infrastructure is currently being delivered in Burnham on Crouch in accordance Policy S2 and S6 Burnham on Crouch Strategic Growth.</p> <p>The application site is located outside the Tollesbury settlement boundary. Development will be largely restricted in the countryside to protect its character, attractiveness and intrinsic beauty.</p> <p>Tollesbury's settlement boundary purposefully excludes most of the rear gardens from 12-108 Mell Road and the triangular pieces of land located beyond the rear gardens of 22-108 Mell Road. Also, the rear gardens at The Mount at the northwest boundary of the application site are outside of the settlement boundary. The settlement boundaries exclude development within existing residential boundaries adjacent open countryside to protect its intrinsic beauty and character.</p> <p>PRoW 263 10 runs east west along the southern boundary of the application site. There are views from the footpath across open fields in all directions including across the application site. The fields are enclosed by mature trees, hedgerow shrubs and field ditches. There are numerous PRoW's which connect from this one southwards to the England Coast Path via Decoy Farm on Thistly Road and via Wick Farm to</p>	<p>The matters raised are addressed at sections 5.1 and 5.4 of this report.</p> <p>The matters raised are addressed at sections 5.1 and 5.4 of this report.</p>



Name of Internal Consultee	Comment	Officer Response
	<p data-bbox="549 132 916 192">Mill Creek and eastwards to Tollesbury Marshes.</p> <p data-bbox="549 232 1038 898">The site is characteristic of open countryside and is the transition between countryside and estuarine coast, evidenced by the sites landscape character area E1 Tollesbury Coastal Farmland and those adjacent to the south are D2 Maldon Drained Estuarine Marsh and to the east D1 Old Hall Marshes and Tollesbury Wick Drained Estuarine Marsh. The estuarine coast is less than a mile southward from the southern boundary of the application site and the character area change is distinct and defined within a small area from the application site. Views from the estuarine coast to the coastal farmland and vice versa are visually important and integral to its tranquil experience.</p> <p data-bbox="549 938 1038 1167">Both character areas have moderate-high sensitivity to change. Moderate sensitivity would come from agricultural development. The planning guidelines set to conserve and enhance the landscape setting and the rural character of the area.</p> <p data-bbox="549 1207 1038 1402">The submitted Design and Access Statement considers four viewpoints taken in the winter months. In the summer the existing built form in Mell Road would not be seen when trees and hedges are in leaf.</p> <p data-bbox="549 1442 1038 2069">Landscape, Appearance, Scale and Layout are Reserved Matters. However, the sensitivity of the application site and the guidelines for any development proposals in the Chris Blandford 2006 Landscape Character Proposal. Tall, focal buildings are an 'urban' approach to design and introducing structural landscape planting at the edges of the application site is contrary to the established character of rectilinear fields enclosed by hedgerows and mature trees that is part of the surrounding and wider landscape character. Introduced structural planting can be as alien in an established, characteristic landscape as new buildings, especially at a</p>	<p data-bbox="1075 1274 1469 1368">The matters raised are addressed at sections 5.1 and 5.4 of this report.</p>

Name of Internal Consultee	Comment	Officer Response
	<p>sensitive countryside edge/edge of settlement location.</p> <p>The illustrative layout of the site will change the character of the land and the settlement pattern of Tollesbury. The 3 proposed perimeter blocks of back to back units are uncharacteristic and the units would back on to existing properties on Mell Road will alter the existing settlement pattern of roadside development on single plot depth.</p> <p>The need to build outside of settlement boundaries is not required. The proposal would urbanise a distinct and characteristic landscape of rural farmland extending the hard built up area of the village out into the open countryside. Currently, the open fields and mature trees and hedgerows establish the verdant nature of the countryside setting of Tollesbury.</p>	
Waste	<p>The Planning and Waste Management Design Guide has not been taken into account regarding the collection system for waste and recycling, including suitable storage walking distances for crews and storage for the residents.</p> <p>The shared driveways must be built to highways standard or communal collection points must identified if more than 25 metres to the entrance.</p> <p>There are a number of terraced properties with no rear access. Containers will be stored at the front of properties which can be unsightly.</p> <p>There are no walkways between the rows of parking spaces to allow for the collection and return of wheeled bins. Bins may be left at the end of paths as a result or crews will need to maneuver bins between cars which could result in damage.</p> <p>If flats are proposed, then a suitable bin store must be provided.</p>	Addressed at section 5.12 of the report.
Tree Consultant	<p>The Arboricultural Report suggests that all of the trees that are around the edge of the proposed development site can be retained and protected, at least the trees of more amenity importance. A more detailed</p>	Addressed at section 5.11 of this report.

Name of Internal Consultee	Comment	Officer Response
	<p>method statement would be required to ensure protective fencing was placed in the correct positions at the correct time.</p> <p>The proposed planting would need to be appropriate for the location, provide screening and enhance the wider landscape setting as well as the wildlife benefit. This could be agreed via a condition.</p>	

### 3.4 Representations received from Interested Parties (summarised):

Representations objecting to the application.

3.4.1 Over 1500 letters have been received **objecting** to the application, which have been summarised below:

Objection Comment	Officer Response
Maldon district has an established 5-year land housing supply.	Addressed at section 5.1 of this report
The LDP does not have any allocated housing developments to Tollesbury and the development is outside the settlement boundary.	Addressed at section 5.1 of this report
The LDP anticipates only 100 houses over 5 years on 'Windfall' sites.	This is noted and provides a strong basis for the Council to resist inappropriate development as does the presence of a five -year housing land supply.
Tollesbury's 'Housing, Employment and Business Needs Survey' (April 17) found that only 43 households wanted to move to Tollesbury therefore there is not a need for 90 houses.	The housing need is based on the District wide Strategic Housing Market Assessment and does not consider the need of individual villages.
Lack of infrastructure such as lack of frequent bus services and railway a station 9 miles away.	Addressed at section 5.3 of this report.
Lack of amenities such as supermarket, shopping centres, hospitals, dentists and recreational activities. This will also have an impact on road safety risks as more delivery lorries would use the narrow road along with increased private traffic.	Addressed at sections 5.3 and 5.7 of this report, where it is found that the increase in number of trips would not be so substantial as to result in the refusal of the application.
Doctors surgery is oversubscribed.	Addressed at section 5.12 of this report.
The electricity supply and sewage are already suffering with the current demands which will	Surface water and foul drainage is assessed at section 5.9 of this report. Electricity would need to be

<b>Objection Comment</b>	<b>Officer Response</b>
only increase if the development is approved. At times, after prolonged rain, raw effluent runs into the river Blackwater.	dealt with through the electricity provider and is not a material consideration.
The sewage provider has warned the local parish that they do not have the capacity to support more houses in the area.	Addressed at section 5.12 of this report.
Lack of job opportunities in Tollesbury.	Addressed at section 5.13 of this report.
Increase of carbon emissions by additional private travel associated with the new development.	Air quality is addressed at section 5.8 of this report. Given that the site has been found to be in a sustainable location in terms of accessibility, it is not considered that the harm by way of private transport would be so harmful as to warrant refusal of the application.
Detrimental impact on wildlife including birds with red conservation status in Tollesbury which should be protected. There would be a loss of winter foraging and roosting habitat which could lead to a permanent loss of the habitat.	Addressed at section 5.11 of this report.
Unacceptable impact on the intrinsic character and beauty of the countryside and open spaces.	Addressed at section 5.3 of this report.
Development of an agricultural/ green field near a widely used public footpath, does not protect the valued countryside	Impacts on the countryside and the footpath are assessed at section 5.3
Light pollution generated from development	Suitable lighting can be agreed via a condition at the Reserved Matters stage.
Detrimental to the tranquillity of the area	Impacts on the character of the area are addressed at section 5.3 and the impacts on neighbouring occupiers at section 5.6
Tollesbury is known as the village of the 'plough and the sail' with the field being ploughed for centuries, replacing it with a housing development will be detrimental to the identity and history of the Village.	Impacts on the character of the area are addressed at section 5.3
Will affect the amenity of neighbouring properties, loss of outlook and privacy.	The impacts on neighbouring occupiers at section 5.6
An 8% increase of additional housing. The size of the current settlement has not been taken into consideration.	The villages ability to accept growth was assessed as part of the creation of the Local Development Plan and formed part of the basis of Policy S8 where Tollesbury is defined as a 'larger village'

Objection Comment	Officer Response
<p>Unsuitable access route with only one single track road going through the village. The road is not of sufficient width and quality to cope with additional traffic and congestion and is in a conservation area.</p>	<p>Addressed at section 5.7 of this report.</p>
<p>Additional traffic generated from the development will increase the existing road safety and pedestrian/cyclist/ equestrian risks.</p>	<p>Addressed at section 5.7 of this report</p>
<p>Gladmans Transport assessment used unrealistic measures of road capacity, not taking into account on road parking.</p>	<p>Addressed at section 5.7 of this report.</p>
<p>Limited parking in the village.</p>	<p>Vehicle parking provision that accords with the Councils adopted Vehicle Parking Standards will be sought at Reserved Matters stage. Sufficient parking within the site should prevent detrimental impacts in terms of parking outside of the site.</p>
<p>No adequate education facilities close to the village. Tollesbury school is almost to capacity. Children may have to travel up to 6 miles to attend the nearest available school.</p>	<p>Addressed at section 5.12 of this report</p>
<p>No safe walking or cycling routes for children to get to school outside of Tollesbury village therefore Essex County Council school transport will have to supply more service and parents will have additional costs of transporting their children to school.</p>	<p>The site is considered sustainable in terms of accessibility due to its edge of settlement location.</p>
<p>The developer's engagement with the LPA and residents of Tollesbury have been inadequate</p>	<p>This is not a material consideration as part of this application as the public have been adequately consulted by the LPA.</p>
<p>The development is very close to a declining eco-system of marsh land which will have a further negative impact on the fragile eco-system.</p>	<p>Impacts on the natural environment are assessed at sections 5.10 and 5.11.</p>
<p>Planning permission has been granted for a small development in Tollesbury on a windfall site and is within the village envelope.</p>	<p>Each application must be assessed on its own merits. The provision of other windfall sites does not automatically mean further sites should not gain permission.</p>
<p>The housing market is stagnant, there is lack of demand and the proposed houses would struggle to sell. A previous development in Tollesbury was built and stood stagnant for a year.</p>	<p>Not a material consideration</p>

Objection Comment	Officer Response
The development could be detrimental to the loss of local business in the future if supermarkets were to be built in the village to meet demand.	There is nothing to currently suggest that supermarkets wish to locate to Tollesbury. However, this would form part of a separate application and is not a consideration for this application.
If approved, a precedent would be set which future developers could exploit to create substantial settlements in the wrong location.	An application can only be assessed on what is being proposed
The proposed development would not be in the interests of local people, rather to encourage people from further afield, therefore the village would lose its current close-knit community.	This is speculation and is not a material planning consideration.
The development is purely a money-making scheme	This is not a material planning consideration.
The developer is unconcerned with contributing to and enhancing the local and natural environment	Impacts on the environment are fully addressed throughout the report
Overdevelopment of the area	Addressed at section 5.3 of the report
The proposal is contrary to local and national policies	The proposal has been assessed against both national and local policy throughout this report.
There have been other planning applications on this land that have been refused	Each application must be assessed on its own merits.
Proposed development is close to Tollesbury Wick and a point of scientific interest and a special protected area	Addressed at section 5.10 where a financial contribution to offset the harm is discussed.
A large development would increase the instability of an already unstable broadband connection	The provision of superfast broadband could be secured via a condition.
The style and design of the houses would be sympathetic to the character of the village	Addressed at section 5.3 of this report
Effect of development of fresh water supply	There has been no objection raised by consultees in regard to this.
Development to the East of the Village centre has not been suggested in Tollesbury's emerging neighbourhood plan	As the Tollesbury Neighbourhood Plan has not been adopted in carries limited weight in determining this application.

<b>Objection Comment</b>	<b>Officer Response</b>
Large Oak tree at the entrance to the proposed development which will probably be cut down	This tree is to be retained as is protected by a TPO. This is further discussed at section 5.11 of this report.
The proposed site has evidence of probable pre-medieval archaeological features, which should be protected.	Addressed at section 5.12 of this report.
Increased population will increase crime, due to the location of the village, police presence is extremely limited.	This is a presumption which is not considered to be a material consideration.
Nearby properties will be devalued	Not a material consideration
No gas supplies in the village	This is not a reason to refuse permission as the developer can provide other energy sources.
Insufficient pressure for water hydrants to operate	This would be dealt with at the Building Regulations stage.
The development is likely to have an adverse effect on off-site trees which could be subject to root severance and a loss of anchorage, this is not taken into consideration in the AIA.	This could be addressed through a Tree Method Statement which would be conditioned if the application were to be approved.
Several of the proposed plans do not show a 25-metre separation between back to back houses or 15 metre side separation as set out in the Maldon and Essex Design Guides.	Addressed at section 5.6. Layout is to be addressed at Reserved Matters if the application were to be assessed.

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

##### **4.1 National Planning Policy Framework (NPPF) 2019, 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 – 57 Planning conditions and obligations
- 59 – 79 Delivering a sufficient supply of homes
- 91 – 101 Promoting healthy and safe communities
- 102 – 111 Promoting sustainable transport
- 124 – 132 Achieving well-designed places
- 148 – 169 Meeting the challenge of climate change, flooding and coastal change
- 170 – 183 Conserving and enhancing the natural environment
- 184 – 202 Conserving and enhancing the historic environment

##### **4.2 Maldon District Local Development Plan (LDP) approved by the Secretary of State**

- S1 Sustainable Development
- S2 Strategic Growth

- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Management
- H2 Housing Mix
- H4 Effective Use of Land
- 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:

- Maldon District Vehicle Parking Standards SPD (VPS)
- Maldon District Design Guide SPD (MDDG)
- Planning Practice Guidance (PPG)

## 5. MAIN CONSIDERATIONS

### 5.1 Principle of Development

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.
- 5.1.2 The Maldon District Local Development Plan (MDLDP) has been produced in light of the original NPPF's emphasis on sustainable development and policy S1 promotes the principles of sustainable development encompassing the three objectives identified in the NPPF. These three objectives of sustainable development are also reiterated in the revised NPPF (paragraph 8).
- 5.1.3 Policy S1 of the Local Development Plan states that *"When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF and will apply, inter alia, the following key principles in policy and decision making:*
- 2) *Deliver a sustainable level of housing growth that will meet local needs and deliver a wide choice of high-quality homes in the most sustainable locations*
  - 4) *Support growth within the environmental limits of the District;*
  - 5) *Emphasise the importance of high-quality design in all developments;*
  - 6) *Create sustainable communities by retaining and delivering local services and facilities;*
  - 8) *Ensure new development is either located away from high flood risk areas (Environment Agency defined Flood Zones 2 and 3) or is safe and flood resilient when it is not possible to avoid such areas;*
  - 9) *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;*
  - 10) *Conserve and enhance the historic environment by identifying the importance of local heritage, and providing protection to heritage assets in accordance with their significance*
  - 11) *Identify the capacity and constraints of local infrastructure and services, and seek to mitigate identified issues through developer contributions including Section 106 agreement and / or Community Infrastructure Levy and other funding sources;*
  - 12) *Maintain the rural character of the District without compromising the identity of its individual settlements;*
  - 13) *Minimise the need to travel and where travel is necessary, prioritise sustainable modes of transport and improve access for all in the community".*



- 5.1.4 Alongside policy S1 policies, S2 and S8 of the approved Maldon District Local Development Plan, seek to support sustainable developments within the defined settlement boundaries. This is to ensure that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. Outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and when it is for a purpose that falls within a defined list of acceptable developments.
- 5.1.5 The site is largely located outside the defined settlement boundaries of the District, with the exception of the two accesses taken from Mell Road, one vehicular and one pedestrian/cycle access. According to Policy S8, there are special circumstances listed where applications for planning permission for development outside of the defined settlement boundaries are proposed, Garden Suburbs and Strategic Allocations may be granted provided that the intrinsic character and beauty of the countryside is not adversely impacted upon. The proposed development is to provide conventional housing and would not fall within any of the categories listed within policy S8. Although provision of policy compliant affordable housing is made, due to the extent of open-market housing which amounts to 60% of total proposed housing, the proposal does not constitute a rural exception site as allowed by one of the listed exceptions for rural exception sites requiring 100% affordable housing (h). Therefore, the principle of development would be unacceptable at this site unless material considerations indicate otherwise and/or material considerations weigh heavily in favour of the development. The impact of the development on the character and intrinsic beauty of the countryside are further assessed below in the relevant section.
- 5.1.6 Within the applicant's submission it is argued that the Maldon District Council are unable to demonstrate a deliverable five year should land supply and therefore, the policies relevant to this application are out of date. The Council is content that they can demonstrate a supply of deliverable homes in excess of five years. This matter is assessed in further detail in the section below (5.2).
- 5.1.7 In light of the above, it is considered that the development would be unacceptable in principle, as it would be contrary to Policies S1, S2 and S8 of the Local Development Plan and the guidance contained in the NPPF and PPG. Other material planning considerations including the impact of the development on the character of the area, the impact on the Scheduled Ancient Monument, the amenity of the neighbouring occupiers, plus the highways and flood risk issues that are assessed below.

## **5.2 Housing Need and Supply**

- 5.2.1 The NPPF is clear that housing should be provided to meet an identified need as set out in Paragraph 60 of the NPPF where it requires local authorities '*To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for*'. Paragraph 61 continues stating that "*Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies*".
- 5.2.2 Following the publication of the February 2019 Government results of the Housing Delivery Test (HDT), which stated that Maldon District has passed the Housing Delivery Test (101%) the Council has revised the October 2018 Five Year Housing Land Supply (5YHLS) statement to apply a 5% buffer for choice and competition. On the basis of the March 2019 5YHLS results the Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years' (6.34) worth of housing against the Council's identified housing requirements.

- 5.2.3 The Maldon District Local Development Plan was approved by the Secretary of State on 21 July 2017. The strategic polices in the MDLDP are under 5 years old (para 73 NPPF) and therefore, the Five-Year Housing Land Supply calculation uses the housing requirement in the LDP (310 dwellings per annum) rather than the local housing need calculated using the standard method.
- 5.2.4 If the standard method were to be used [based on 2014 household projections for 2017 and 2027 and the 2017 median work-place based affordability ratio] the minimum annual housing need figure would be 306 dwellings per annum. As this is below the LDP housing set target, no adjustment to the housing requirement would be pertinent following the revised guidance and NPPF.
- 5.2.5 On the basis of the above, the Council is content that can demonstrate a supply of specific deliverable sites sufficient to provide for more than five years' (6.34 years) worth of housing against the Council's identified housing requirements.
- 5.2.6 The applicant disputes the Council's ability to demonstrate a five-year housing land supply based on the argued failure of the Council to deliver sufficient affordable units against the identified need within the SHMA. It is also argued that the proposed housing would respond to the National Housing crisis, albeit it is accepted that every Local Authority must ensure that a five-year housing land supply is achieved against up to date assessment of its own needs. Not only has limited information has been submitted to go against the robust Council's 2019 assessment of the five-year housing land supply, but also the argument made is partially arbitrary, given that it based on the national rather than the local needs. It is noted that the NPPF requires the assessment of housing need to be at local level. It should be also noted that the five-year housing land supply is not assessed separately for affordable or market housing. Furthermore, the argument put forward by the applicant regarding the benefits arising from the development due to the provision of affordable housing towards the identified need is unfounded, given that any development, including that within the settlement boundaries, would have to provide a number of affordable units that complies with the requirement of policy H1 of the LDP. As noted above the development does not propose a 100% affordable provision, as required by exception policy S8 for rural exception sites outside the defined settlement boundaries. On that basis and going through the planning balance exercise, it is noted that the benefits arising from this element of the development are not exceptional and do not outweigh the potential harm caused as discussed in this report, including the impact on the character of the area and the intrinsic beauty of the countryside and ecological and biodiversity assets.
- 5.2.7 Of relevance to this is two appeals at Land South of New Moor Farm and East of North End, Southminster (APP/X1545/A/14/2224678, APP/X1545/W/15/3004973) which proposed the erection of 240 and 220 houses, outside of the defined settlement boundary at a time when the Council was unable to meet its five-year housing land supply. Although located in different parts of the Maldon District, both the site subject of this appeal and the Southminster site lie outside of the settlement boundary, albeit in close proximity, and provide a transition between the built form and countryside.
- 5.2.8 As part of the Southminster appeals the Inspector concluded that the social and economic benefits arising from the development were not sufficient to outweigh the identified harm. Arguably the benefits that arise from the current development are relatively less than these examples, given that the Council can demonstrate a supply of deliverable homes in access of five years and that the scheme, taking into account the lower number of dwellings, than which was proposed as part of those appeals, has less of a benefit in social terms. Notwithstanding that the tilted balance is not engaged in this instance, it is considered that if the tilted balance was engaged the benefits of the development are still considered to not outweigh the conflict with the adopted policies within the LDP, the harm as identified above and the material considerations weighing against the proposal including the planning history of the site.
- 5.2.9 The Strategic Housing Market Assessment (SHMA) identifies that there is a need for a higher proportion of one and two-bedroom units to create a better housing offer and address the increasing need for smaller properties due to demographic and household formation change.

- 5.2.10 Policy H2 of the Local Development Plan (LDP) contains a policy and preamble (paragraph 5.2.2) which when read alongside the evidence base from the Strategic Housing Market Assessment (SHMA) shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two-bedroom units, with around 71% of all owner-occupied properties having three or more bedrooms. The Council is therefore encouraged in the policy H2 of the LDP to provide a greater proportion of smaller units to meet the identified needs and demands.
- 5.2.11 The Design and Access Statement and the Planning Statement considers that the housing mix would be a matter that would be determined at future reserved matters stage. However, it should be noted that the percentage housing mix is an outline matter and should be considered as part of this application.
- 5.2.12 Some details of the mix for the affordable units has been provided within the submitted Affordable Housing Statement, including 72.2% smaller (one and two-bedroom units). Furthermore, an indicative mix has been included in the submitted Socio-Economic Statement. However, the affordable housing mix differs within the Affordable Housing Statement to what is shown with the Socio-Economic Statement. For example, the Affordable Housing statement suggests a mix consisting of six one-bedroom properties, twenty two-bedroom properties, nine three-bedroom and one four-bedroom properties; whereas, the Socio-Economic Statement states that there will be twenty-five two-bedroom and eleven three-bedroom affordable units. Therefore, suggesting that 69.4% of the affordable units will be smaller. Nevertheless, the affordable housing is proposed to exceed the 60% requirement for smaller (one and two-bedroom) units.
- 5.2.13 Notwithstanding the above, the market housing proposes zero smaller units. Therefore, when assessing the proposal in its entirety the provision of much needed smaller units is set well below the minimum 60% requirement (27.7% of smaller units as set out within the Socio-Economic Statement). However, given the outline nature of the development and meaning this matter could be dealt with by the imposition of an appropriate planning condition securing an appropriate mix for both the market and affordable housing elements of the development, it is not considered reasonable for this matter to constitute a separate reason for refusal.
- 5.2.14 Further in relation to Affordable Housing, it is noted that despite the mix of houses for Affordable Rent (27 dwellings) and Intermediate housing (9 dwellings) shown within the Affordable Housing Statement, the submitted planning application shows that all 36 houses will be Intermediate, which does not accord with the requirements of the SHMA with regards to affordable tenure mix. Therefore, Strategic Housing Services have raised an objection.
- 5.2.15 Due to the absence of a legal agreement securing suitable affordable housing provision and the lack of clear information regarding the tenures proposed an objection must be raised to the application on this basis.

### **5.3 Accessibility**

- 5.3.1 In respect of this, paragraph 110 of the NPPF sets out that *“applications for developments should a) give priority to pedestrian and cycle movements ... and second – so far as possible – to facilitating access to high quality public transport”*. This is reflected in policy T2 of the Local Plan which relates directly to accessibility, by requiring all new development proposals to *“provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate”*.
- 5.3.2 Policy S8 of the LDP identifies the hierarchy of the settlement, classifying Tollesbury as a ‘larger village’ with limited range of services and opportunities for employment, retail and education.
- 5.3.3 With regard to services and facilities, it is noted that a very small part of the site is located within the settlement boundary of Tollesbury and the remainder of the site is either abuts the settlement boundary or lies within close proximity of it. Therefore, the site is considered to be in reasonable proximity to the village’s facilities and services, which includes a doctor’s

surgery, school, post office, a petrol station, pub, restaurant, churches, a nature reserve and a convenience store.

- 5.3.4 In terms of access to the 'Main Towns' and nearby settlements, there are bus stops located on the junction of Church Street and High Street and Station Road and High Street, which are located an approximate maximum walk of 950m from the application site (12-minute walk), if taken along Mell Road. The bus service provides access to Witham, Colchester and Maldon. The bus service is somewhat limited, although this is typical in rural locations. Paragraph 103 of the NPPF states that "*sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making*". Therefore, on that basis, no objection is reasonable to be raised in relation to the accessibility of the site to local amenities and facilities or access to alternative to private vehicle modes of transport.
- 5.3.5 On the basis of the above, although not in ideal location in terms of its accessibility to local amenities and alternatives to private vehicle modes of transport, no objection is considered reasonable to be raised in terms of the accessibility of the site

#### **5.4 Design and Impact on the Character 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 states that:

*"The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people".*

*"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".*

5.4.3 This principle has been reflected to 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.

5.4.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG.

5.4.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible

enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.

- 5.4.6 The application site lies mostly outside the defined settlement boundaries. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.4.7 The application is supported by a Design and Access Statement and a Landscape and Visual Assessment, which states that the visual effects resulting from the development would range between negligible and moderate adverse, at the outset reducing further by year fifteen to none to minor adverse as the proposed green infrastructure planting matures. However, the proposal would result in a substantial amount of urban built form within a countryside location.
- 5.4.8 The application site sits outside the settlement boundaries of the Tollesbury. The extensive rear gardens of existing dwellings on Mell Road provide a transition between the built-up areas of the settlement and into the countryside and their importance is highlighted by the positioning of the recently confirmed settlement boundary of Tollesbury which is deliberately sited through the rear gardens, rather than around the edges to ensure that this soft edge to the countryside is maintained. The siting of up to 90 dwellings to the rear of this transitional landscape would create a harsh and abrupt edge to the built form. Furthermore, it is considered that the introduction of 90 dwellings sited in this countryside location would result in a substantial development which would constitute urban sprawl of built form into the countryside and would significantly urbanise the area to an extent that would erode and harm the rural character of the area and the intrinsic beauty of the countryside.
- 5.4.9 Further to the above, due to siting of the nearby PRoW's, particularly the one running to the south of the site, the development would still be visible from public vantage points. The scale, mass and extent of development would be significant and readily visible from the PRoW and glimpses would be available between the dwellings on Mell Road. Whilst it is noted that a large amount of soft landscaping is proposed, particularly along the southern and western boundaries this is indicative of the inappropriateness of the site to accommodate the proposed development as it is deemed necessary to provide extensive screening of the site. Furthermore, those using the PRoW will have full views of the of the proposed development. The Landscape and Visual Assessment document suggests that this will be viewed in the context of the dwellings fronting Mell Road, to the rear of the application site. However, the proposal would be situated much closer to the PRoW than the existing built form and therefore, its impacts would be greater. The existing open view across the field and towards the settlement would be reduced and would become more enclosed and compact, reducing the countryside feel of the PRoW. In addition to this, although a landscape buffer is proposed along the southern boundary of the site, this will take some years to mature and will be less effective in winter months.
- 5.4.10 Whilst it is noted that the submitted layout plan is indicative, and layout is a matter reserved for later consideration, the layout of the development will largely be dictated by the internal road layout, which forms part of the access consideration, a matter for determination as part of this application. The layout as shown proposes a 'block' style layout with three distinctive blocks of housing and two areas with linear forms of housing. This is considered to be a very urban form of development, which is not reflective of the layout of neighbouring dwellings within Mell Road. Furthermore, the pattern of development as shown does not reflect the large plots to the northwest of the site or the long, thin plots fronting Mell Road. Whilst there are other cul-de-sac developments within the northeast of Tollesbury these would not be read in the context of the application site. The detachment of the proposed development from the character of nearby properties is also exacerbated by the triangular parcel of land known as Land Rear of 54 Mell Road, Tollesbury (defined by 17/00078/LDE), as the provision of this land further detaches the application site from the residential area of the settlement and pushes it further into the countryside.

- 5.4.11 It is also noted that Appearance, Scale, Layout and Landscaping are Reserved Matters. However, the Landscape Visual Impact Assessment and the Design and Access Statement both introduce structural planting to the southern boundary of the site, seen as the countryside edge and 2.5 story units and focal buildings. Such additions are considered to be urban approaches to design in this location and the introduction of structural landscaping at the edges of the application site are contrary to the established landscape character of the rectilinear fields enclosed by hedgerows and mature trees that are part of the surrounding landscape character. Such landscaping would appear alien in an established, characteristic landscape, especially at a sensitive countryside edge/edge of settlement location.
- 5.4.12 The site, which is an agricultural field, clearly contributes to the open, rural character of the area, defining the village setting, forming the transition point and boundary between the built-up area of the village and the landscape beyond. Introducing a housing estate in this location would unacceptably expand the built form beyond the settlement boundaries and impinge onto the countryside. This type of development would result in an unacceptable urbanising effect on the intrinsic character and beauty of the countryside to an unacceptable degree.
- 5.4.13 The Local Planning Authority is content that it can meet a deliverable supply of homes that is in excess of five years without recourse to allowing development which would otherwise be unacceptable. The impact of the development on the rural character of the area and the intrinsic beauty of the countryside have been identified and therefore, the benefits arising from the provision of additional residential dwellings are not considered such that could outweigh the environmental harm caused.

## **5.5 Impact on Neighbouring Heritage Assets.**

- 5.5.1 In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. In the terminology of the NPPF, the Council must consider whether the proposal will 'harm' the listed building's 'significance'. Similar advice is contained within policy D3 of the Local Development Plan.
- 5.5.2 In addition to the above, policy D3 of the approved Maldon District Local Plan states alterations to listed buildings will be required to "preserve or enhance its special character, appearance, setting-including its streetscape and landscape value- and any features and fabric of architectural interest.'
- 5.5.3 The closest designated heritage asset to the application site is Monk's House, which is a grade II listed building, located approximately 55m from the application site, to the southeast. The listed building is a timber-framed and brick Georgian building, which is dated to 1792 and was built by Edward Monk, a local landowner.
- 5.5.4 Given the distance between the application site and the listed building, and also having regard to the intervening vegetation and buildings which separate the sites, it is not considered that there would be a notable impact on the important views of the listed building, particularly as the principal elevation of Monk's House faces south, away from the application site. Historically Monk's House and part of the land that forms the application site were in the same ownership. However, this is considered to contribute little to the building's significance.
- 5.5.5 Having regard to the above assessment, it is considered that the development would have very little, if any, impact on the ability to experience and appreciate the listed building's significance and nor would the development harm the significance of any other designated heritage asset. Therefore, there is no objection in terms of the impacts on the nearby heritage assets in accordance with the NPPF and Policy D3 of the approved Maldon District Local Development Plan.

## **5.6 Impact on 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. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.6.2 The application is outline in nature, with matters relevant to the impact of the development on the neighbouring residential occupiers, such as scale, appearance and layout, being reserved for future consideration. Although it should be noted that there is little scope for the broadscale layout to be amended, given that if this outline application were to be approved the access arrangements include the internal road layout within the site. Therefore, the siting of the estate roads will largely dictate the layout of the site. Nevertheless, given that the matters mentioned above are subject to submission and revision and considering the limited level of information provided with the application, it is not possible to fully assess the impact of the proposal on residential amenity.
- 5.6.3 Notwithstanding the above, what is clear from the submitted information is that the proposed development would result in up to 90 dwellings, which will inevitably increase levels of activity on site, which is currently an agricultural field. The site neighbours the open countryside to the south and partially to the west and there are residential units to the north, northwest and east. On that basis, the proposed residential development would result in a use that is compatible in terms of amenity with the adjoining residential character of the area and thus, it would not adversely impact upon the amenities of the neighbouring occupiers in that respect.
- 5.6.4 The indicative site plan shows residential properties that back onto the application site. The Maldon District Design Guide states that where new development backs on to the rear gardens of existing housing, the distances between buildings should be 25m (C 07 Residential Amenity). The indicative layout shows that the dwellings proposed directly to the rear of the properties fronting Mell Road, will achieve a back to back distance in excess of the required 25m. However, this would need to be fully assessed at the Reserved Matters stage when the layout is fully known. However, having regard to these distances and the indicative site plan it is considered that the proposed site is sufficiently distant to neighbouring dwellings so as to minimise any unacceptable harm to the outlook of privacy of existing residents.
- 5.6.5 It should however, be noted that there is the potential for the noise resulting from the siting of the access to have detrimental impacts on the occupiers of Nos 8, 18, and Old Police House Mell Road. However, it is noted that the proposed pedestrian/cycle access could be used by the site owners at any time and given that it would not be used by vehicular traffic it is unlikely that noise levels would be so great as to result in demonstrable harm to the neighbouring occupiers.
- 5.6.6 In terms of the vehicular access, the planned access is proposed to be located a similar distance from No. 8 Mell Road, as Mell Road is located from the principal elevation of No. 8. Therefore, it is not considered that the siting of the access will result in an increase in noise to a level which would be much greater than the existing road traffic noise and therefore there is no objection in relation to noise on the impacts of the existing neighbouring occupiers.
- 5.6.7 It is therefore considered that an appropriate layout could be produced so that the amenities of the neighbouring occupiers, including overshadowing, overlooking or undue sense of enclosures, would not be compromised. Notwithstanding the absence of a daylight sunlight assessment, as already stated above, full assessment of the impact of the development on the neighbouring occupiers would be subject to a reserved matters application, should permission be granted.

## **5.7 Access, Parking and Highway Safety**

- 5.7.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 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 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.

#### Access

- 5.7.2 Two access points are proposed to the site. The first is a combined vehicle and pedestrian access located at 6 Mell Road, and will involve the demolition of that property in order for the access to be created. The second is a pedestrian/cycle located between No. 18 Mell Road and Old Police House, Mell Road. Both accesses will be located on the southern side of Mell Road.
- 5.7.3 The proposed vehicle access will consist of a 5.5m wide carriageway with a 6m wide corner radii and two, 2m wide footpaths either side of the access. The submitted Transport Statement states that the existing footway to the west of the proposed access will be widened to tie into the wider site side footway provision of 1.6m, further northwest along Mell Road. Having regard to this it is considered that the proposed access would be wide enough to allow safe access and egress from the site. Plan P19022-0001D within Appendix D of the submitted Transport Statement also shows the visibility splays of 2.4m x 43m can be achieved. Furthermore, improvements are proposed to separate the vehicle and pedestrian/cycle access through the provision of footpaths, crossing points and the separate access further to the east of the main access. Therefore, there is no objection raised in terms of pedestrian safety.
- 5.7.4 The Highway Authority has been consulted and raised no objection to the proposed development, subject to the imposition of a condition securing the implementation of the proposed access arrangement as shown in the submitted plan P19022-001D in Appendix D of the Transport Assessment and a condition requiring a Construction Management Plan.

#### Trip generation

- 5.7.5 To assess the impact of the development in terms of trip generation and flow of traffic, a Transport Assessment has been submitted, including a Trip Rate Information Computer System (TRICS) assessment and an assessment of local trip rates.
- 5.7.6 The submitted Transport Assessment advises that according to the TRICS assessment the site is likely to generate in the region of 47 two-way trips in the AM peak hour (08:00-09:00 hours), 48 two-way trips in the PM peak hour (17:00-18:00 hours) and 437 two-way trips daily. The local trips rate assessment shows that the site would generate 24 two-way trips in the AM peak hour and 53 two-way trips in the PM peak hour. The report advises that a Hybrid Approach of both sets of trip rates and generations have been used, taking the higher trip rates for their respective periods, in order to provide a robust assessment.
- 5.7.7 Surveys were also carried out at two off-site junctions (North Road/ High Street/ Elysian Gardens/ West Street & South Street/ Tollesbury Road/ Church Street). The data suggested that the junctions could expect to experience an increase of 47 two-way trips in the AM peak and 53 two-way trips in the PM peak.
- 5.7.8 Following this a capacity assessment was undertaken which showed that the North Road/ High Street/ Elysian Gardens/ West Street junction would continue to operate with a considerable level of spare capacity in 2024. In relation to the South Street/Tollesbury Road/ Church Street junction it was found that the junction would continue to operate with ample spare capacity in 2024 and the proposed site access also showed no operational problems.
- 5.7.9 The assessment concluded that the development would be unlikely to result in an unacceptable impact on highway safety and the cumulative impact of the development can not be considered severe. Furthermore, the Highway Authority has been consulted and raised no objection to the impact of the proposed development on the highway network due to the increased movements generated by the development.



5.7.10 It is noted that there have been numerous objections received relating to the impacts of the development in terms of traffic and highway safety, particularly relating to the fact that the Transport Assessment does not take account of the key village links as well as the key junctions identified, which are said to be of concern because there are many areas along the key route to and from the application site which do not allow for two-way traffic movement. However, the number of trips to be generated are not considered to be substantial and so it is unlikely that then impacts would be far greater along these routes than at the junctions. Furthermore, the Local Highway Authority were consulted on the information provided by the Parish Council and maintain their previous position. Therefore, given the findings of the Transport Assessment and the Local Highway Authority it would not be reasonable to refuse the application on these grounds.

#### Parking provision

5.7.11 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.

5.7.12 It is noted that the application has been submitted in outline and no details for off-street parking have been provided with the application. Should permission be granted a condition to secure off-street parking provision for the development that is compliant with the Vehicle Parking Standards would be imposed.

#### Highway Improvements

5.7.13 The Draft Heads of Terms states that the Developer will be required as part of the legal agreement to provide, as necessary, the improvements identified to improve the public highway, sustainable and public transport provision within the site.

5.7.14 The Highway Authority has been consulted and is satisfied that there would be no highway capacity issues expected to arise as part of the proposed development. They have however suggested a condition requiring the widening of the existing footway to the north-west of the proposed main site access, the relocation of the existing telegraph pole opposite the convenience store onto the grass verge and the provision of pedestrian dropped kerbs and tactile paving. Given that these relate to things located outside of the application site it is considered that they should be secured as part of the legal agreement opposed to a condition.

5.7.15 The applicant has advised within the Transport Impact Assessment that they are willing to create a more formal parking scheme to enhance the existing chicane effects caused by on street parking and improve the existing situation. However, the Local Highway Authority have not suggested any such works are necessary.

5.7.16 Although the applicant is willing to implement the aforementioned highway improvements, in absence of a signed legal agreement to secure these highway improvements, the impact of the development would not be able to be mitigated and therefore, an objection is raised in that respect.

### **5.8 Private Amenity Space and Impact on the Living Conditions of the Future Occupies**

- 5.8.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.
- 5.8.2 The development has been submitted in outline, with matters of layout, scale, appearance and landscape being reserved for future consideration. No details of the size of the private gardens of the proposed dwellings have been submitted, but this would be a matter for further consideration at a reserved matters stage and thus, an objection would be unreasonable to be raised at this stage in relation to provision of private amenity space.
- 5.8.3 In terms of the quality of living accommodation, this would be subject to the submission of further details at a reserved matters stage.

#### Noise

- 5.8.4 Given that the site is situated adjacent to other residential dwellings and abuts the countryside, it is not considered that the surrounding land uses would result in unacceptable noise impacts in relation to the potential future occupiers of the site. Furthermore, it is noted that the increase in local road traffic will increase if the development were to be approved, which would result in what has been described in the submitted Noise Screening Assessment (Wardell Armstrong 20<sup>th</sup> May 2019) as an imperceptible increase in noise at existing residential properties close to the local road network.
- 5.8.5 Given the limited increase in noise and the compatible surrounding uses and following consultation with Environmental Health it is considered that a detailed noise assessment is not necessary. Therefore, there is no objection in relation to the impacts of noise on the future residents.

#### Air Quality

- 5.8.6 The application is supported by an air quality assessment to determine the air quality risks during construction and potential impacts of the development generated vehicle movements.
- 5.8.7 The submitted Air Quality Assessment (Wardell Armstrong July 2019) shows that the proposed development, once constructed, will not lead to air quality deterioration to any level of significance and this the impact on human health is not going to be significant. However, should permission be granted there will need to be careful management during the construction phase to prevent undue impacts to the health of the existing residents, which can be managed by a condition.

### **5.9 Flood Risk**

- 5.9.1 Policy D5 of the LDP states that the Council's approach is to direct strategic growth towards lower flood risk areas, such as Flood Zone 1 as identified by the Environment Agency. Where development is not located in Flood Zone 1 and in order to minimise the risk of flooding, it should be demonstrated that the Sequential and Exception Tests, where necessary, have been satisfactorily undertaken in accordance with national planning policy.
- 5.9.2 The National Planning Policy Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. To assess that, a Sequential Test should be applied.

*"The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding."*

- 5.9.3 The proposed development is located in Flood Zone 1; thus, not in an area at risk of tidal or fluvial flooding. However, the application is more than 1 hectare in size and it is accompanied by a Flood Risk Assessment which includes details of how surface water would be managed.
- 5.9.4 The Lead Local Flood Authority were consulted on the application and raised the following concerns in relation the original Flood Risk Assessment (May 2019):
- The greenfield runoff rate should be calculated using the area which is contributing to the surface water system. The calculations show that the whole site has been used rather than the developable area.
  - The preliminary storage calculations have been based on the Qbar rate. Discharge rates should be limited to the 1 in 1-year greenfield runoff rate for all storm events up and including the 1 in 100 year storm event plus 40% climate change, Alternatively, if restricting to the 1 in 1-year greenfield rate approach is not possible discharge rates can be limited to a range of equivalent greenfield discharge rates. For example, the 1 in 1-year storm event will be limited to the 1 in 1-year greenfield run off rate, the 1 in 30-year storm event will be limited to the 1 in 30-year storm event and so on. However, if this alternative approach is used then an inclusion of long-term storage will be required.
- 5.9.5 Following these comments, a revised Flood Risk Assessment (September 2019) was submitted by the Applicant. However, given that there are a number of other fundamental concerns with the application, it was not considered beneficial to re-consult on this information. Therefore, it is considered that the Surface Water Drainage information remains inadequate in order to determine whether surface water can be suitably dealt with at the site.

#### Foul drainage

- 5.9.6 The application is supported by a Foul Drainage Analysis which advises that waste water will be discharged to the public sewerage network owned and operated by Anglia Water. Anglia Water has been consulted and confirmed that the development is in the catchment area of Tollesbury Water Recycling Centre and that will have available capacity for these flows. If permission were to be granted, the details of the foul drainage would be dealt with by a condition.

### **5.10 Ecology regarding development within the zone of influence (Zoi) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)**

- 5.10.1 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'zones of influence' of these sites cover the whole of the Maldon District.
- 5.10.2 Natural England anticipate that, in the context of the Local Planning Authority's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these zones of influence constitute a likely significant effect on the sensitive interest features of these designated site through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), HMOs, student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.10.3 Prior to the RAMS being adopted, Natural England advised that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) - Natural England have provided an HRA record template for use where recreational disturbance is the only HRA issue.
- 5.10.4 The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. 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.

5.10.5 The proposal is for less than 100 houses and Natural England's general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a 'proportionate financial contribution should be secured' from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site's resilience to recreational pressure and in line with the aspirations of emerging RAMS.

5.10.6 To accord with Natural England's requirements, an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (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, as follows:

HRA Stage 1: Screening Assessment – Test 1 - the significance test

Is the development within the zone of influence (Zol) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes - The planning application relates to 90 dwellings.

Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites

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.

Summary of appropriate assessment

5.10.7 The application proposes the erection of 90 dwellings and a shadow HRA has been submitted with the application to assess the potential impacts of the development on the nature conservation sites. Given that the site is located within a zone of influence (Zol) for the Essex Coast RAMS and taking into account the amount of development proposed on site, it is expected that the development would have likely significant effects on identified European sites. An appropriate assessment should therefore be carried out to assess the implication of the proposed development on the qualifying features.

5.10.8 The submitted HRA provides details of on-site mitigation measures including the provision of 1.59 hectares of on-site public open space to maximise opportunities for informal recreation including dog walking and the identification and promotion of alternative routes in the immediate locality; aimed at alleviating addition (and existing) pressures from visitor numbers at the designated sites. Furthermore, to overcome any in combination impacts with other plans and projects, a contribution towards mitigating the impacts caused to the Essex coast by recreational activities is proposed.

5.10.9 The Essex Coastal Recreational Avoidance and Mitigation Strategy is currently under preparation and it therefore, constitutes an emerging document for the Council. This document states that the flat rate for each new dwelling has been calculated at £122.30 and thus, the developer contribution should be calculated using this figure. However, in the absence of a signed legal agreement to secure the abovementioned contribution, the impact of the development not be able to be mitigated and thus, this would constitute a reason for refusal of the application.

## 5.11 Impact on the Ecology, Trees and Biodiversity

- 5.11.1 The application site does not fall within or in close proximity to nature conservation sites. However, policy N2 of the LDP states that *“All development should seek to deliver net biodiversity and geodiversity gain where possible. 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.”* Conservation and enhancement of the natural environment is also a requirement of the NPPF.
- 5.11.2 On the basis of the abovementioned policy requirement, a Wintering Bird Survey Report (July 2019) and Ecological Appraisal July 2019 has been submitted. To assess the potential impacts of the development on nature conservation sites and protected species, a desk study, followed by an Initial phase 1 habitat and protected species survey was undertaken during the 2016/17 survey season and then was updated during the 2019 survey season. Following these further detailed surveys were undertaken in 2016/17 and 2019.
- 5.11.3 The RSPB raised concerns with the findings of the findings and they have suggested that a more thorough assessment is carried out and any mitigation should be suitably bespoke, deliverable and effective.
- 5.11.4 Similarly, Essex Wildlife Trust have raised concerns over the loss of habitat for declining farmland bird species and due to a there being a lack of evidence to demonstrate a measurable net biodiversity gain.
- 5.11.5 In response to these comments the applicant has provided further supporting information relating to the suitability of the site for nesting. RSPB have provided a further response in relation to this information which notes that for the purposes of enhancing biodiversity, enhancing the hedgerow is a positive step which could be secured via an appropriately worded condition. However, due to the proximity of the development to the habitat, there remains a concern over the level of recreational disturbance, particularly among dog walkers affecting birds foraging on the ground, combined with the predation threat from domestic cats on any potential nesters, which would severely impinge the effectiveness of mitigation. Therefore, given the limited enhancements proposed in comparison to the amount of habitat that will be lost through the urbanisation of an agricultural field, the Local Planning Authority are of the opinion that the proposal would have an adverse effect on the biodiversity of the site.

### Trees

- 5.11.6 The site is mainly arable land. The majority of trees and hedgerows are located along the east west and northeastern boundaries of the site. The application is supported by an Arboricultural Assessment, which advises that a total of five individual trees, seventeen groups of trees and two hedgerows were surveyed as part of the Arboricultural Assessment, given that there is potential to be affected by the development, due to them being within the site or in close proximity. The Arboricultural Assessment is supported by information in relation to the quality of the trees and a plan and detailed table with the trees, hedgerows and woodland to be retained and removed. The information provided shows that there are two high quality trees within/close to the application site, one of which located adjacent to the proposed access on Mell Road ( T2) and one on the triangular point where the land to the Rear of 54 Mell Road meets the application site (T4). There are also four groups of trees of moderate value (G1, G2, G3, G7).
- 5.11.7 The Tree Retention shows that all of the trees and hedgerows within the site are proposed to be retained and can be protected, especially the trees of more amenity importance. A root protection plan shows accompanies the applications as well as details for the protection of the trees. However, a more detailed method statement would be required if the permission was to be granted, to ensure that protective fencing was placed in the correct positions at the correct time.

- 5.11.8 It is also important to note that T4 is covered by Tree Protection Order (8/19). Whilst it is noted that this tree is not proposed to be removed as a result of the development and should not be affected as a result of the works, as started above, further information in the form of an Arboricultural Method Statement would be required to demonstrate how the tree will be suitably protected and should show that there will be arboricultural supervision where/when required. This can be secured through a suitably worded condition.
- 5.11.9 The Tree Retention Plan and Illustrative Layout plan show a number of additional trees are to be planted within the application site and along the southern and southern part of the western boundary. However, given that the application is outline in nature and Landscaping is Reserved Matter, further assessment of the amount of tree cover to be included will be required at the reserved matters stage.
- 5.11.10 It is considered that sufficient information has been submitted to demonstrate that the development would not have a harmful impact on the existing vegetation and that immediately adjacent to the site. Subject to the imposition of a suitable condition securing the protection of the trees, hedgerows and woodland area, the development is not considered to result in a harmful impact on the health or visual amenity of the existing vegetation. Should permission be granted, this matter could be dealt with via a condition.

## **5.12 Other Matters**

### Archaeology

- 5.12.1 The application is supported by a desk-based Archaeological and Built Heritage Assessment, which assesses the significance of the heritage resource within the site, the contribution that the site makes to the heritage significance of the surrounding designated heritage assets and seeks to identify and harm or benefit to them which may result from the implementation of the development proposals, along with the level of harm caused.
- 5.12.2 The document concludes that '*...there is potential for archaeological remains within the site. However, on current evidence, it is not considered to be likely that remains of a significance as to preclude development are present.*'
- 5.12.3 The consultation response from the Historic Environment Officer was received stating that '*The site is located within an area recorded on the Historic Environment Record as containing aerial photographic evidence of enclosures (EHER 17194). The Most recent photographs from Google Earth show a range of probable archaeological features across the site. The date range of these features is unclear but are likely to be pre-medieval in date. The submitted desk-based assessment and heritage statement also identify the presence of archaeological deposits.*'
- 5.12.4 Having regard to the above it is considered necessary that a full archaeological condition is imposed if the application were to be approved, in line with the guidance set out within the NPPF.

### Contamination

- 5.12.5 It is noted that the application is supported by a Phase 1 Preliminary Risk Assessment (LK Consult Ltd April 2019) assessing potential contamination on site. The assessment concludes that a phase II contamination investigation is recommended to further assess potential pollutant linkages. The Environmental health Team has been consulted and advised that a Phase 2 Intrusive Investigation in accordance with the recommendations made in section 7.2 of the abovementioned report would be required. This could be dealt with by suitably worded conditions.

### Health Impact Assessment – Health Care Provision

- 5.12.6 The NPPF supports that planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. A Health Impact Assessment (HIA) is a useful tool to use where there are expected to be significant impacts.

- 5.12.7 According to Health Impact Assessment of Government Policy (2010) the HIA is to produce a set of evidence-based practical recommendations that will inform decision-makers on how best they can promote and protect the health and wellbeing of local communities they serve. The HIA should maximise the positive impacts and minimise the negative impacts of the policy and address health inequalities. Recommendations for action and monitoring should be included within the document submitted.
- 5.12.8 The application is supported by a Health Impact Assessment which assessed the development against the Healthy Urban Development Unit (HUDU) criteria, which within others include the access to quality housing, the access to healthcare services and open space, the noise and air quality, the access to healthy foot and active travel. The assessment concludes that the development would have predominantly positive impacts; however, some of the issues would have to be re-assessed given that further details would be required, which will have to be submitted as part of a reserved matters application. It is stated that overall the proposed residential development will have a positive influence on health and well-being or prospective residents.
- 5.12.9 Within the submitted HIA it is stated that the proposed development would incorporate the Code of Sustainable Homes, whilst it is noted that standard has been abolished it not considered as material to the determination of this application, however any housing specification will not able to be fully assessed at this stage given the outline nature of the proposal. The development would provide 1.59 hectares of open natural green space which will be liked with the existing green infrastructure around the site. Further assessment of the potential air quality and noise would be required to be carried out at the reserved matters stage. Similarly, disabled access would be a matter that need further assessment at a reserved matters stage, as the details of layout, appearance and scale have not been submitted with the application. Crime reduction is proposed to be achieved through natural surveillance. It is noted that the development would provide jobs during the construction phase and additional household expenditure during the operational phase. The proposed development will adopt sustainable construction measures to minimise waste and promote recycling during construction, while energy efficiency measures and household recycling will be encouraged. The provision of energy efficient sustainable design measures and provision of drainage solutions are proposed to meet the climate change criterion. All the above are considered to overall positively influence the health and well-being of the future occupiers of the proposed residential development, albeit all the above are conventional ways of meeting the criteria for healthy communities that can be met by any new residential development proposed within the boundaries of the settlement and thus, they cannot constitute ways to materially weigh in favour of the proposed development that has a demonstrable harm on the intrinsic beauty of the countryside.
- 5.12.10 It should be also highlighted that one of the requirements for healthy communities is the access to healthcare services and other social infrastructure. Within the submitted HIA it is stated that the proposed development does not provide social infrastructure, health facilities or community services as part of the site. The applicant recognises that a capital contribution may be required to mitigate the primary healthcare impacts arising from the proposed development.
- 5.12.11 Whilst a consultation response from the NHS has not yet been received, given the absence of a s106 agreement to secure the abovementioned improvements such as public open space and the potential for contributions to further healthcare places an objection is raised on these grounds.

*Public Open Space and Local Equipped Area of Play (LEAP)*

- 5.12.12 It is noted that a Local Equipped Area of Play is proposed to be provided within the western part of the application site. However, the accurate location of the LEAP would be subject to the submission of further details at a reserved matters stage. The development would provide family housing and thus, such provision is required to mitigate the impact of the development. The standards for a LEAP are provided on page 40 of the adopted "Green Infrastructure Strategy for Maldon District" (October 2018). These require it to be located within a walking time of five minutes from the new homes, provide 5 play types, seating, litter bins and a notice board, be fenced with two pedestrian gates and have a minimum activity zone of 400sqm. The details of

the proposed LEAP would be required to be agreed through a legal agreement and should be part of a future reserve matters application. Although the provision of open space, including a local equipped area of play are included within the submitted Heads of Terms, which normally inform the terms of the S106 agreement securing this necessary provision, it is noted that in the absence of such agreement, the impact of the development and its future needs would not be able to be secured and thus, an objection is raised in that respect.

### Education

- 5.12.13 The proposed residential development proposing the erection of up to 90 dwellings it expected to be family housing and therefore, a contribution towards education should be sought to mitigate the potential impacts of the development. The Essex County Council Infrastructure Department has been consulted and it is advised that development is expected to generate a need of up to 8.1 early years and childcare, 27 primary school and 18 secondary school places. Although the actual payment would be based on the actual dwelling mix, initial figures of the required payment to off-set the impact of the development have been provided. It is stated that a contribution of £141,118 index linked would be required to off-set the impact onto the capacity of the early years and Childcare. In terms of primary education, it is considered that there are sufficient primary school places to accommodate the development and so a contribution is not sought.
- 5.12.14 For secondary education a further 18 places would be required, seeking a contribution of £417,852 index linked to April 2018. Furthermore, a contribution of £90,630 index linked is sought for a secondary school transport contribution. In the absence of an agreement to secure the abovementioned payments, it is considered that the impact of the development on the education would not be able to be mitigated and therefore, an objection is raised to the unaddressed impact of the development on the education.

### Developer contributions

- 5.12.15 Along with other key principles, policy S1(11) requires decision makers to “*Identify the capacity and constraints of local infrastructure and services and seek to mitigate identified issues through developer contributions including Section 106 agreement and / or Community Infrastructure Levy and other funding sources*”.
- 5.12.16 The application is supported by Draft Heads of Terms, which include the suggested developer obligations. The general obligations that the applicant is willing to enter into relate to provision of a 40% affordable housing, the provision of open space including an equipped children’s play area and their necessary long-term maintenance and management, off-site sports provision and highway improvements as discussed in greater detail in section 5.7 of the report. The applicant is also willing to accept other contributions, given that they meet the three planning obligations’ tests.
- 5.12.17 Although the applicant is willing to enter into an agreement with the Council to make some of the necessary contributions, as stated above, to mitigate the impact of the development, it is noted that without a signed legal agreement these necessary contributions would not be able to be secured and therefore, the impact of the development would not be able to be mitigated. An objection is therefore raised in relation to the unaddressed adverse impacts of the proposed development. The unacceptable impacts for each of the necessary developer contributions are assessed in greater details in each individual relevant section of the report above.

### Waste

- 5.12.18 Section C 09 of the Maldon District Design Guide (MDDG) states that “*the management of waste needs to be considered early on in the design to avoid inconvenient waste storage for residents, inefficient collections of waste produced or unsightly bin storage areas.*”
- 5.12.19 From the information submitted it does not appear that the information within the MDDG and the MDDG Planning and Waste Management document has been taken into account, particularly with regard to the collection system for waste and recycling including suitable



storage walking distances for the crews and storage for the residents. Furthermore, there indicative layout shows a number of terraced properties, with no rear access, which will require containers to be stored within the front of the properties which can be unsightly and detrimental to the character and appearance of the area. Likewise, the parking spaces to the front of properties without driveways do not show that there will be any walkways between the rows of parking spaces to allow for the collection and return of wheeled bins, which will result in bins being left at the end of the path or crews having to manoeuvre bins in between the cars with the potential cause for damage. However, given that the application is outline in nature and that layout, appearance and landscape are matters reserved for future consideration it is considered that these matters could be suitably dealt with as part of the Reserved Matters process.

- 5.12.20 It should also be noted that if flats are proposed at the Reserved Matters stage, then a suitable bin store would need to be provided and the shared driveways which accommodate up to four properties, must either be built to highways standard or communal collection points identified if more than 25 metres to the entrance.

### **5.13 Contribution to the Achievement of Sustainable Development**

- 5.13.1 Paragraph 8 of the NPPF sets the criteria for sustainable development, which include three main objectives, the economic, the social and the environmental objective. Paragraph 9 stipulates that *“Planning policies and 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.”*

#### Economic objective

- 5.13.2 In relation to the economic role, the proposed residential development of up to 90 new dwellings would provide employment during the construction stage. Future residents would also be likely to make use of the existing services and businesses in the area, which will potentially increase local jobs and also contribute to the labour supply.
- 5.13.3 The application is supported by a Socio-economic Sustainability Statement which has been submitted to assess the social and economic sustainability of Tollesbury and the examine the potential socio-economic benefits arising from the proposed development. Extracts from appeal decisions have been provided within the statement. It should be noted that each application is assessed on each own merit and the weight that is given to one development is not necessarily the same to that given to another. For instance, it appears that all of the cases referenced in the statement are for housing developments in Districts that are failing to deliver sufficed homes to meet housing need and/or do not benefit from specify allocation that have reached an advanced stage (Old Red Lion, Great Missenden, APP/X0415/W/18/3202026 and Lowestoft Road, Hoptop-on-Sea, APP/U2615/W18/3194645, Cringle Road, Levenshulme APP/B4215/W/18/3196113). The determination of an application is a planning balance exercise and the weight that is given to a matter can vary depending on the circumstances of each case. In the abovementioned case, the fact that the Councils cannot meet their five-year housing supply is such a consideration that can materially change the weight given to other benefits arising form the development. Maldon District Council has evidenced that can meet a supply of deliverable homes in excess of five years and thus, these referenced appeal decisions cannot carry significant weight to assessment of the current proposal.
- 5.13.4 It is accepted that the development would create jobs, bring consumer expenditure, local force and Council tax revenue. However, these benefits although they are given significant weight, considering that they can be similarly met into all allocated sites for development or sites within the settlement boundaries or those that constitute sustainable development and taking into account that the Council can meet its five year housing land supply, and that the tilted balance is not engaged, it is considered that in applying the ordinary planning balance, even if the tilted balance were engaged, the benefits cannot outweigh the harm identified on the rural character of the area and the countryside and the negative impacts on biodiversity.

- 5.13.5 In terms of the economic benefits post development, it is noted that the economic statement suggests that the development could result in an additional 130 people of working age residing in Tollesbury and 110 of those are expected to be economically active. However, as noted within the letters of objection, there is no evidence to suggest that there are 110 jobs locally within the village and therefore, it is highly unlikely all the economically active residents will be employed within the village. Whilst this is noted, it is likely that at least some of the future residents would be employed within Tollesbury or would work from home, thereby supporting the local economy to some degree. However, the benefits of this would not overcome the previously identified harm.
- 5.13.6 The letters of objection also note that the submitted information discusses that a significant amount of weekly resident spending would be retained locally, but this lacks evidence. However, some degree of evidence is provided at section 3.4 of the economic statement. Nevertheless, it is not considered the conclusion that local expenditure could support around 10 full time equivalent jobs within the District is so significant as to overcome the identified harm.

#### Social objective

- 5.13.7 With regard to the social role, it is acknowledged that the development would contribute towards the supply of homes in the District. Whilst it is noted that the five-year housing land supply is not a ceiling, it is a factor that can prevent the need to allow development that is otherwise demonstrably unacceptable and unsustainable. In this instance the harm caused by the development has been identified and it is such that it cannot be outweighed by the benefit of additional housing.
- 5.13.8 It is also noted that the development would not accord with the exception policy S8 regarding developments outside the defined settlement boundaries for two reasons. Firstly, because it cannot accord with the requirement for protecting the intrinsic beauty and character of the countryside and secondly, because the proposal is not for rural exception site for affordable housing, which requires 100% affordable housing provision in accordance with Policy H5. On that basis, although a policy compliant level of affordable housing is proposed to be provided, although it is unclear whether this is to the appropriate tenure mix, this is not adequate to accord with the Council's exception policy S8 or materially weigh in favour of the proposed development, which has been found to be unacceptable in other respects. The proposal does not make provision for a higher percentage than the Policy H1 requirement for affordable units and thus, there is no greater benefit arising from the development that it is not met at the allocated sites or other residential sustainable developments. Furthermore, whilst only indicative, it appears that the development does not propose a housing mix that meets the requirements set out in Policy H2 for smaller (one and two-bedroom) units – only 27.7% of smaller units are proposed. Moreover, there is no indication for provision of bungalows or housing dedicated to an aging population, which is a need identified in policy H3. For all the abovementioned reasons, it is considered that the social benefits of the development would be comparably limited, when applying the appropriate balance in considering the harm caused to the rural area and the heritage assets.
- 5.13.9 Of relevance to this is two appeals at Land South of New Moor Farm and East of North End, Southminster (APP/X1545/A/14/2224678, APP/X1545/W/15/3004973), which have been discussed fully at section 5.2, where the Council were unable to demonstrate a five-year housing land supply and did not have an approved Local Development Plan. Irrespective of that, the Inspector concluded that the identified environmental harm was such that, it would not be possible to be outweighed by the social benefits. This harm was identified by the Inspector, although in a previous appeal at a different site is persuasive in the balanced assessment of the current proposal.

#### Environmental objective

- 5.13.10 In relation to the environmental objective, extensive assessment of the impact of the development on the character of the area, the countryside and heritage assets is assessed above in the relevant sections of the report in great detail. The environmental harm identified is

not able to be outweighed by the positive factors of the proposed development. These adverse effects would result in a significant environmental detriment, which goes beyond any of the benefits of the proposal.

## **6. CONCLUSION**

- 6.1 In applying the appropriate balance and having taken all material planning considerations into account, it is found that the proposed residential development, would result in an unacceptable urbanising effect into to what is currently considered an area constituting the countryside and an unresolved harm to the natural environment in terms of impacts on biodiversity and ecological assets.
- 6.2 Further to the above, the development would result in a residential development outside the defined settlement boundaries of the District identified within the LDP and it would not fall under any of the types of developments allowed under the exception policy S8. The Council is able to meet a housing land supply in excess of five years without recourse to allowing development which would otherwise be unacceptable. Whilst some social and economic benefits have been identified, it is considered that the harm identified to the character and appearance of the rural area and the countryside and the adverse impacts on biodiversity and ecological interests weigh significantly against the proposal. Furthermore, it has not been sufficiently demonstrated that surface water drainage could be affectively managed at the site.
- 6.3 A number of planning obligations would be required to make the development acceptable in planning terms, including the provision of affordable housing and in the absence of a signed legal agreement, the impact arising from the development would not be able to be mitigated and thus this constitutes another reason for refusing the application.
- 6.4 The presumption in favour of sustainable development set out in paragraphs 10 to 12 of the Framework applies only to sustainable developments. On the basis of the assessment within this report it is concluded that the harm caused by the proposed development would significantly outweigh the positive elements of the approving this permission.

## **1. RECOMMENDATION**

**REFUSE PLANNING PERMISSION** for the following reasons:

- 1 The site is in a sensitive rural location outside of the defined settlement boundary for Tollesbury where policies of restraint apply. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Local Development Plan. The proposed development as a result of its indicative unsympathetic amount, scale and form would not protect or enhance the natural or built environment. It would have an unacceptably intrusive urbanising effect upon the site adversely affecting the intrinsic character and beauty of the countryside. As such, the proposal does not represent sustainable development and the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the scheme contrary to policies S1, S2, S8, D1 and D3 of the approved Maldon District Local Development Plan and the guidance and provisions of the revised National Planning Policy Framework.
- 2 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, and due to unclear and adequate information relating to the tenure of the proposed affordable housing, the proposal includes inadequate provision to secure the delivery of affordable housing to meet the identified need in the locality, address the Council's strategic objectives on affordable housing and supporting a mixed and balanced community, contrary to Policies S1, H1 and I1 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework. Furthermore, in the absence of a signed legal agreement to secure the completion, management and maintenance of the public open space, the impact of the development cannot be mitigated contrary to policies S1, I1 and D1 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.

- 3 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the necessary provision of, widening the existing footway to the north-west of the proposed main site access, the relocation of the existing telegraph pole opposite the convenience store onto the grass verge, and the provision of pedestrian dropped kerbs and tactile paving at the junction of The Mount and East Street immediately to the east of the proposed pedestrian / cycle access, and immediately to the west of the proposed vehicle access with the precise location to be agreed with the Highway Authority, implementation and distribution of a (modal shift) Residential Travel Information Pack for sustainable transport, the impact of the development cannot be mitigated contrary to Policies S1, D1 and T2 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.
- 4 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing the provision of any necessary contribution towards health care provision, the impacts of the development on the existing health care services would not be able to be mitigated contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan and the NPPF.
- 5 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1 and I1 of the Maldon District Local Development Plan and the NPPF.
- 6 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing any necessary contribution towards Early Years and Childcare, primary and secondary school placements and provision for secondary school transport contribution, the development would have an adverse impact on the Education provision and the provision of secondary school travel contrary to Policies S1, I1 and N3 of the Maldon District Development Plan and the NPPF.
- 7 Inadequate information has been submitted with regard to the discharge of surface water due to the use of incorrect calculations. Therefore, it has not been demonstrated that surface water would be adequately dealt with at the site. The proposal would therefore be contrary to Policies D5 and I1 of the Maldon District Local Development Plan and the guidance contained within The National Planning Policy Framework.
- 8 Inadequate information has been submitted to demonstrate that the proposal would not result in negative impacts on important ecological assets and there is a lack of evidence to demonstrate that the development would result in a measurable net biodiversity gain. The proposal would therefore be contrary to Policies S1, D1 and N2 of the Maldon District Local Development Plan and the guidance contained within The National Planning Policy Framework.

### **Positive and Proactive Statement**

#### **Town and Country Planning (Development Management Procedure) (England) Order 2015 - Positive and Proactive Statement:**

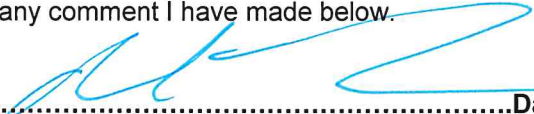
The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant/Agent the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to liaise with the Applicant/Agent to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

**Case Officer**

Signature..... D. Hearnah .....Date..... 6/11/19 .....

**Delegated Authority**

I, the undersigned, agree with the officer's recommendation above after taking in to account the content of the officer's report, plans, supporting documents, consultation responses and all relevant material considerations subject to any comment I have made below.

Signature.....  .....Date..... 6/11/19 .....

Name: **Matthew Leigh**  
Position: **Lead Specialist – Place**

## HABITAT REGULATIONS ASSESSMENT (HRA) REPORT

<b>Application No:</b>	<b>19/00837/OUT</b>
<b>Location:</b>	Land Rear of 6 to 108 Mell Road, Tollesbury
<b>Proposal:</b>	Outline planning application with some matters reserved (Access only) for a residential development of up to 90 dwellings with public open space, landscaping, sustainable drainage systems and vehicular access point from Mell Road (following the demolition of no. 6 Mell Road). All matters reserved except for means of access.
<b>Consultation Expiry Date:</b>	06.09.2019
<b>Application Expiry Date:</b>	06.11.2019
<b>Parish Council Response:</b>	Object
<b>Case Officer:</b>	Devan Hearnah
<b>Recommendation:</b>	<b>REFUSE PLANNING PERMISSION</b>

### 1. SUMMARY

#### 1.1 Site Description

- 1.1.1 The application site is irregularly shaped and measures 4.42ha in area. It is located to the rear of Nos. 6 to 108 Mell Road, with the majority of the site being located outside of the defined settlement boundary of Tollesbury. The only areas of the site located within the settlement boundary are the two proposed access routes within the north of the site, measuring approximately 1040m<sup>2</sup> in area in total. The most northern, north western and eastern parts of the site abut the rear of dwellings on Mell Road. Most of the western boundary and the southern boundaries adjoin open fields, which are delineated by hedgerows.
- 1.1.2 The site is located in the countryside, defining the village setting, forming a transition point between the built-up area of the village of Tollesbury and the flat, green landscape to the south of the village.
- 1.1.3 There is currently no vehicular access to the site, although it can be accessed on foot via the public footpath to the south of the site from Mell Road. There is also a gated access between The Old Police House and No. 18 Mell Road but this is currently fenced off.
- 1.1.4 To the south of the site is Public Right of Way (PRoW 263 10) that runs east west from Mell Road in the east to Church Street in the west.

#### 1.2 The Proposal

- 1.2.1 The proposal is outline in nature with all matters reserved, except for access and proposes the erection of a residential development of up to 90 dwellings, with associated public open space, landscaping, sustainable drainage systems (SUDs) and vehicular access point from Mell Road, which would require the demolition of No. 6 Mell Road.
- 1.2.2 The proposed development would be accessed from the southern side of Mell Road, which as detailed above requires the demolition of No. 6 Mell Road. Plan 7192-L-03 Rev K has been submitted which shows the access details to the site as does plan P19022-001D within Appendix D of the submitted Transport Statement. The plans show that an approximately 5.5m wide vehicle access will be provided to the northwest of the application site, with footpaths either side measuring approximately 1.6m in width, and a pedestrian access/emergency access measuring approximately 5m wide will be provided between The Old Police House and No. 18 Mell Road.
- 1.2.3 Within the site is a primary road which runs east to west and has three points running north to south, providing access to shared driveways. The plan also shows pedestrian/cycle links through the site and around an area of open spaces within the southwestern corner of the site.

- 1.2.4 The application is supported by a Planning Statement, stating that the 40% of the proposed development would be affordable housing (amounting to 36 dwellings), and that an area of open space measuring 1.59ha (36%) to the west of the site will include landscaping, recreational space, an equipped children's play area and a dog-walk route.
- 1.2.5 It is noted that the proposed surface water drainage will attenuate water run-off to less than the existing greenfield run-off rate, taking into account future climate change.
- 1.2.6 All the above proposed contributions/provisions would be subject to a separate S106 agreement.
- 1.2.7 Although outline in nature, the application is supported by an illustrative plan showing the residential development expanding almost throughout the application site, with some landscape buffer planting onto the western and southern boundaries and individual tree planting within the site. The LEAP area has been shown on the western part of the open space and the attenuation area on the southeast corner. An indicative pedestrian/cycle route is proposed to run in a circular fashion around the open space to the southwest and through the centre of the site. The roads within the site would head from the main access to the east and would have secondary roads running north to south leading to private driveways to the rear of the site.

## 2. Assessment

- 2.1 The Conservation of Habitats and Species Regulations 2010, section 21 (Assessment of implications for European sites) states that:

*Where it appears to the appropriate nature conservation body that an application for consent under regulation 20(2)(a) relates to an operation which is or forms part of a plan or project which—*

*(a) is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and*

*(b) is not directly connected with or necessary to the management of that site,*

*they must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.*

- 2.1.1 Where any plan or project may have a "likely significant effect" (LSE) on a European site (as in this case) the HRA process must be followed. This is generally considered to consist of four stages which are:
1. Screening for a LSE
  2. Appropriate Assessment (AA) and the Integrity Test
  3. Alternative Solutions
  4. Imperative reasons of overriding public interest (IROPI) and compensatory measures
- 2.1.2 In support of the application, a Shadow Habitat Regulations Assessment has been submitted, including details of the first stage of the HRA, which is the screening for a likely significant effect and a stage 2 appropriate assessment including details of mitigation measures and the assessing of the implications of the plan or project for that site in view of that site's conservation objectives.
- 2.1.3 The application proposes the erection of up to 90 dwellings and a shadow HRA has been submitted with the application to assess the potential impacts of the development on the nature conservation sites. Given that the site is located within a zone of influence (Zoi) for the Essex Coast RAMS and taking into account the amount of development proposed on site, it is expected that the development would have likely significant effects on identified European sites. An appropriate assessment should therefore be carried out to assess the implication of the proposed development on the qualifying features.

Appendix 1-  
**Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat  
 Regulation Assessment (HRA) Record**

<b>Application details</b>	
<b>Local Planning Authority:</b>	<b>Maldon District Council</b>
<b>Case officer</b>	<b>Devan Hearnah</b>
<b>Application reference:</b>	<b>19/00837/OUT</b>
<b>Application description:</b>	<b>Outline planning application with some matters reserved (Access only) for a residential development of up to 90 dwellings with public open space, landscaping, sustainable drainage systems and vehicular access point from Mell Road (following the demolition of no. 6 Mell Road). All matters reserved except for means of access.</b>
<b>Application address:</b>	<b>Land Rear of 6 to 108 Mell Road, Tollesbury</b>
<b>Status of Application:</b>	<b>Pending consideration</b>

**HRA Stage 1: screening assessment**



- 2.1.4 The submitted HRA provides details of on-site mitigation measures including the provision of 1.59 hectares of on-site public open space to maximise opportunities for informal recreation including dog walking and the identification and promotion of alternative routes in the immediate locality; aimed at alleviating addition (and existing) pressures from visitor numbers at the designated sites. Furthermore, to overcome any in combination impacts with other plans and projects, a contribution towards mitigating the impacts caused to the Essex coast by recreational activities is proposed.
- 2.1.5 The Essex Coastal Recreational Avoidance and Mitigation Strategy is currently under preparation and it therefore, constitutes an emerging document for the Council. This document states that the flat rate for each new dwelling has been calculated at £122.30 and thus, the developer contribution should be calculated using this figure. However, in the absence of a signed legal agreement to secure the abovementioned contribution, the impact of the development would not be able to be mitigated.
- 2.1.6 Natural England has been consulted and has highlighted that the application site falls within the 'Zone of Influence'. A Habitat Regulation Assessment is required before the grant of any planning permission. It is anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designed sites, through increased recreational pressure, either considered alone or in combination with other plans and projects. It is therefore suggested that the Local Planning Authority as the competent authority carries out a HRA stage 2 appropriate assessment in accordance with the Natural England's Guidance. This assessment is carried out and attached below at Appendix 1.
- 2.1.7 On the basis of the above, following the screening out at stage 1 of the HRA and its Appropriate Assessment at stage 2, no further assessment is required. The proposed development was considered in light of the assessment requirements of regulation 61 of the Conservation of Habitats and Species Regulations 2010 by Maldon District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.
- 2.1.8 Having carried out a 'screening' assessment and an 'appropriate assessment' of the project, the competent authority has concluded that mitigation measures and developer contribution towards RAMS would be required to mitigate the likely significant effect of the development on any European sites, either alone or in combination with any other plans or projects (in light of the definition of these terms<sup>1</sup> in the 'Waddenzee' ruling of the European Court of Justice Case C – 127/02). This needs to be secured through a legal agreement and in the absence of a complete and signed legal agreement, an objection is raised in relation to the unresolved likely significant impact on the designated sites.

### **3. CONCLUSION**

- 3.1 The Competent Authority hereby determines that mitigation measures and developer contribution towards RAMS would be required to mitigate the likely significant effect of the development on the designated sites. In the absence of a complete and signed legal agreement, an objection is raised in relation to the unresolved likely significant impact on the designated sites.

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<sup>1</sup> The word 'terms' refers to the 'significant affect' and 'appropriate assessment' as defined in the Waddenzee ruling.

**Test 1 – the significance test: Based on the development type and proximity to European designated sites, a judgement should be made as to whether the development constitutes a ‘likely significant effect’ (LSE) to a European site in terms of increased recreational disturbance**

*Is the development within the zone of influence (Zoi) for the Essex Coast RAMS with respect to the below sites?*

- Essex Estuaries Special Area of Conservation (SAC)
- Hamford Water Special Protection Area (SPA) and Ramsar site
- Stour and Orwell Estuaries SPA and Ramsar site (Stour on the Essex side only)
- Colne Estuary SPA and Ramsar site
- Blackwater Estuary SPA and Ramsar site
- Dengie SPA and Ramsar site
- Crouch and Roach Estuaries SPA and Ramsar site
- Foulness Estuary SPA and Ramsar site
- Benfleet and Southend Marshes SPA and Ramsar site
- Thames Estuary and Marshes SPA and Ramsar site (Essex side only)

**YES**

**NO**

*Does the planning application fall within the following development types?*

- New dwellings of 1+ units (excludes replacement dwellings and extensions)
- Houses in Multiple Occupancy (HMOs)
- Student Accommodation
- Residential care homes and residential institutions (excludes nursing homes)
- Residential caravan sites (excludes holiday caravans and campsites)
- Gypsies, travellers and travelling show people plots

**YES**

**NO**

Conclude LSE. This proposal is within scope of the Essex Coast RAMS as it falls within the ‘zone of influence’ for likely impacts and is a relevant residential development type as listed above. It is anticipated that such development in this area is ‘likely to have a significant effect’ upon the interest features of the aforementioned designated site(s) through increased recreational pressure, when considered either alone or in combination. Therefore:

- Proceed to HRA Stage 2: **Appropriate Assessment** to assess recreational disturbance impacts on the above designated sites
- Check **IRZs** to see whether recreational disturbance is an issue for non-coastal European sites or Sites of Special Scientific Interest (SSSIs). If so, this will also need

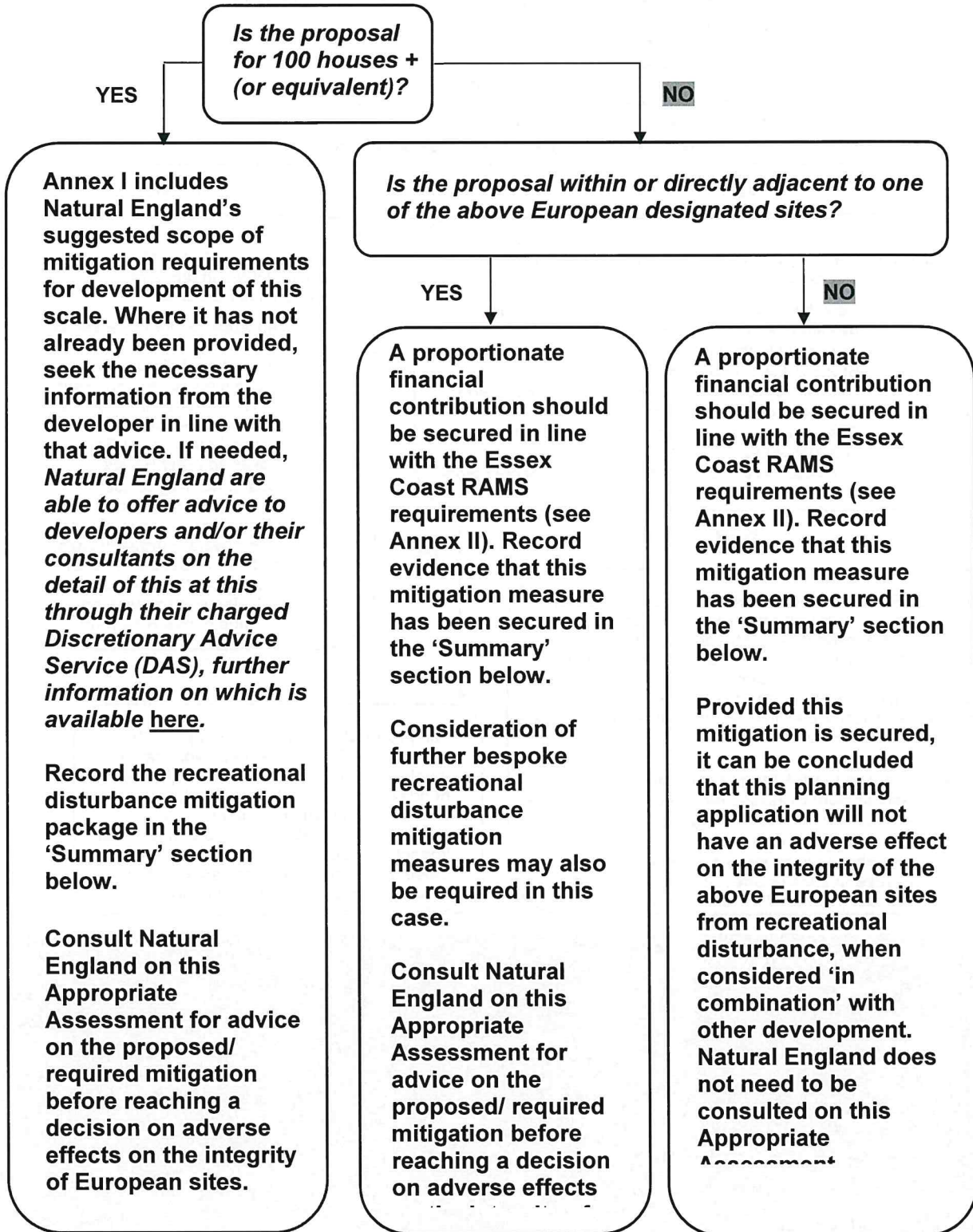
Conclude no LSE to the above designated sites in terms of recreational disturbance:

- An **Appropriate Assessment (AA)** is not required where recreational disturbance to these sites is the only issue or recreational disturbance to these sites can be scoped out of any HRA covering other issues.
- Check **NE IRZs** to see whether recreational disturbance is an issue for non-coastal European sites or Sites of Special Scientific Interest (SSSIs). If so, this will also need assessing outside of this HRA form.

The proposal is outside the scope of the Essex Coast RAMS. However, applications involving tourist accommodation (including holiday caravans and campsites), for example, could still potentially have recreational disturbance impacts (and other impacts) on designated sites, including those listed above. In cases such as these, consult Natural England for bespoke advice before concluding no LSE.

**HRA Stage 2: Appropriate Assessment**

**Test 2 – the integrity test: The applicant must provide sufficient evidence to allow the Appropriate Assessment to be made, which is the stage at which avoidance and/or mitigation measures can be considered**



**Summary of the Appropriate Assessment : To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England (where necessary)**

**Summary of recreational disturbance mitigation package**

The application proposes the erection of up to 90 dwellings and a shadow HRA has been submitted with the application to assess the potential impacts of the development on the nature conservation sites. Given that the site is located within a zone of influence (Zol) for the Essex Coast RAMS and taking into account the amount of development proposed on site, it is expected that the development would have likely significant effects on identified European sites. An appropriate assessment should therefore be carried out to assess the implication of the proposed development on the qualifying features.

The submitted HRA provides details of on-site mitigation measures including the provision of 1.59 hectares of on-site public open space to maximise opportunities for informal recreation including dog walking and the identification and promotion of alternative routes in the immediate locality; aimed at alleviating additional (and existing) pressures from visitor numbers at the designated sites. Furthermore, to overcome any in combination impacts with other plans and projects, a contribution towards mitigating the impacts caused to the Essex coast by recreational activities is proposed.

The Essex Coastal Recreational Avoidance and Mitigation Strategy is currently under preparation and it therefore, constitutes an emerging document for the Council. This document states that the flat rate for each new dwelling has been calculated at £122.30 and thus, the developer contribution should be calculated using this figure. However, in the absence of a signed legal agreement to secure the abovementioned contribution, the impact of the development would not be able to be mitigated and thus, this would constitute a reason for refusal of the application.

**Conclusion**

For the reasons stated above mitigation measures and developer contribution towards RAMS would be required to mitigate the likely significant effect of the development on the designated sites. In the absence of a complete and signed legal agreement to secure the mitigation measures and contribution, it is considered that the likely impact of the development would be sufficiently harmful as a result of additional residential activity to justify a refusal of planning permission.

**Local Planning Authority Case Officer comments, signed and dated:**

**The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The guidance of Natural England is that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure. As a competent authority, the local planning authority concludes that the project will be likely to have a significant effect on the sensitive interest features of the European designated sites, in the absence of a legal agreement securing a developer contribution towards RAMS and appropriate mitigation measures. Having regard to the importance of the word 'significant', it is considered that the development, would have a significant effect on the ecological interests of the protected sites.**

Case Officer

Signature



Date

5/11/19

## **Annex I – Natural England’s recommendations for larger scale residential developments within the Essex Coast RAMS zone of influence (100 units +, or equivalent, as a guide)**

Developments of this scale should include provision of well-designed open space/green infrastructure, proportionate to its scale. Such provisions can help minimise any predicted increase in recreational pressure to the European sites by containing the majority of recreation within and around the development site boundary away from European sites. We advise that the Suitable Accessible Natural Green Space (SANGS) guidance [here](#) can be helpful in designing this; it should be noted that this document is specific to the SANGS creation for the Thames Basin Heaths, although the broad principles are more widely applicable. As a minimum, we advise that such provisions should include:

- High-quality, informal, semi-natural areas
- Circular dog walking routes of 2.7 km<sup>2</sup> within the site and/or with links to surrounding public rights of way (PRoW)
- Dedicated ‘dogs-off-lead’ areas
- Signage/information leaflets to householders to promote these areas for recreation
- Dog waste bins
- A commitment to the long term maintenance and management of these provisions

*Natural England would be happy to advise developers and/or their consultants on the detail of this at the pre-application stage through our charged Discretionary Advice Service (DAS), further information on which is available [here](#).*

However, the unique draw of the above European sites means that, even when well-designed, ‘on-site’ provisions are unlikely to fully mitigate impacts when all residential development within reach of the coast is considered together ‘in combination’. We therefore advise that consideration of ‘off-site’ measures (i.e. in and around the relevant European designated site(s)) is also required as part of the mitigation package for predicted recreational disturbance impacts in these cases.

As such, in the interim period before the RAMS is adopted, a financial contribution should also be agreed with and collected from the developer, prior to commencement, on the basis that it can be used to fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)). These measures should be targeted towards increasing the relevant European site(s) resilience to recreational pressure and be in line with aspirations of the emerging RAMS. As an example in this interim period, this could include funding towards existing wardening schemes at the relevant European designated site(s). A suitable delivery mechanism for the measures must be agreed to secure them and ensure they are implemented from the first occupation of dwellings. Alternatively, we understand that it may be acceptable at the outline planning stage to include a suitably-worded planning condition which secures full adherence with the emerging Essex Coast RAMS at the Reserved Matters stage.

Once the RAMS has been adopted, a financial contribution should be secured from these developments prior to commencement.

**Annex II – Natural England’s recommendations for smaller scale residential developments within the Essex Coast RAMS zone of influence (0-99 units, or equivalent, as a guide) which are not within/directly adjacent to a European designated site**

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<sup>2</sup> Taken from *Jenkinson, S., (2013), Planning for dog ownership in new developments: reducing conflict – adding value. Access and greenspace design guidance for planners and developers*

**Whilst the provision of well-designed open space/green infrastructure on site or contributions towards strategic green infrastructure in your district is to be welcomed for developments of this scale, a proportionate financial contribution in line with/to the Essex Coast RAMS should be secured as a minimum to help fund strategic ‘off site’ measures.**

**As such, in the interim period before the RAMS is adopted, a financial contribution should be agreed with and collected from the developer, prior to commencement, on the basis that it can be used to fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)). These measures should be targeted towards increasing the relevant European site(s) resilience to recreational pressure and be in line with aspirations of the emerging RAMS. As an example in this interim period, this could include funding towards existing wardening schemes at the relevant European designated site(s). A suitable delivery mechanism for the measures must be agreed to secure them and ensure they are implemented from the first occupation of dwellings. Alternatively, we understand that it may be acceptable at the outline planning stage to include a suitably-worded planning condition which secures full adherence with the emerging Essex Coast RAMS at the Reserved Matters stage.**

**Once the RAMS has been adopted, a financial contribution should be secured from these developments prior to commencement.**

**Annex II – Natural England’s recommendations for smaller scale residential developments within the Essex Coast RAMS zone of influence (0-99 units, or equivalent, as a guide) which are not within/directly adjacent to a European designated site**

**Whilst the provision of well-designed open space/green infrastructure on site or contributions towards strategic green infrastructure in your district is to be welcomed for developments of this scale, a proportionate financial contribution in line with/to the Essex Coast RAMS should be secured as a minimum to help fund strategic ‘off site’ measures.**

**As such, in the interim period before the RAMS is adopted, a financial contribution should be agreed with and collected from the developer, prior to commencement, on the basis that it can be used to fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)). These measures should be targeted towards increasing the relevant European site(s) resilience to recreational pressure and be in line with aspirations of the emerging RAMS. As an example in this interim period, this could include funding towards existing wardening schemes at the relevant European designated site(s). A suitable delivery mechanism for the measures must be agreed to secure them and ensure they are implemented from the first occupation of dwellings. Alternatively, we understand that it may be acceptable at the outline planning stage to include a suitably-worded planning condition which secures full adherence with the emerging Essex Coast RAMS at the Reserved Matters stage.**

**Once the RAMS has been adopted, a financial contribution should be secured from these developments prior to commencement.**