



Appeal Decision

Hearing held on 25 and 26 November 2025

Site visit made on 26 November 2025

by **J Bowyer BSc(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st January 2026

Appeal Ref: APP/X1545/W/25/3369961

Land South of Threeways and 45 The Street, Latchingdon, Essex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by EJ Latchingdon Ltd against Maldon District Council.
 - The application Ref is 24/01004/OUTM.
 - The development proposed is 'outline planning application with all matters reserved except for means of access, for up to 140 no. dwellings (Use Class C3) including 40% affordable housing; new site access and internal access roads; a new village centre (Use Class E(a)); flexible employment space (Use Class E); car and cycle parking; landscaping; sustainable urban drainage systems; public open space and footpaths; community woodlands and allotments; together with associated infrastructure'.
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Decision

1. The appeal is dismissed and outline planning permission for 'up to 140 no. dwellings (Use Class C3) including 40% affordable housing; new site access and internal access roads; a new village centre (Use Class E(a)); flexible employment space (Use Class E); car and cycle parking; landscaping; sustainable urban drainage systems; public open space and footpaths; community woodlands and allotments; together with associated infrastructure' is refused.

Preliminary Matters

2. The appeal relates to an application for outline planning permission. Approval is sought for access to the site, but matters of appearance, landscaping, layout and scale are reserved for future consideration. I have considered the appeal on this basis, treating all details apart from those relating to access to the site as illustrative.
3. The application was not determined by the Council within the prescribed period. In response to the appeal, the Council has prepared appeal statements outlining its view that permission should be refused. I have had regard to these statements and the suggested reason for refusal within in framing the main issues below.
4. The effect of the proposal on European sites designated under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') did not form part of the Council's putative reason for refusal. Nevertheless, in circumstances where a proposal could have a likely significant effect on such sites, the Habitats Regulations impose a duty on the competent authority to consider implications for the site's conservation objectives within the framework of an Appropriate Assessment before deciding to give any consent, permission or other authorisation.

This duty would fall to me. In accordance with the National Planning Policy Framework ('the Framework'), Ramsar sites should be given the same protection as European Sites. In light of the evidence before me which indicates that the proposal could have a likely significant effect on designated sites and comments made by Natural England, the Statutory Nature Conservation Body, I have considered this matter as an additional main issue.

5. Following the Hearing, the appellant sought to submit late evidence in the form of two letters relating to the matter of effects on designated sites including additional ecological information in respect of functionally linked land ('FLL') and in support of a suggested condition. The Procedural Guide: Planning Appeals - England states that the appeal process should not be used to evolve a scheme and that it is important that what is considered by the Inspector is essentially what was considered by the Local Planning Authority and interested parties at the application stage. It further advises that documents received after the statutory time limits will normally be returned.
6. The Procedural Guide does indicate that acceptance of late documents may be considered where there is a change of circumstances. In this case however, the late evidence did not relate to a change in circumstances. Representations on the proposal by statutory consultees and interested parties including at application stage had clearly referred to effects on European sites including matters of FLL. I also drew this matter to the attention of the parties within my pre-Hearing note which identified effects on European sites as a main issue to be considered in the appeal, including in respect of FLL potential. The pre-Hearing note additionally requested supplementary statements from the parties on matters including FLL. Against this context, there is no compelling reason to find that this matter could not have been addressed earlier which might warrant the acceptance of late evidence.
7. Given too the nature of the additional information and that Natural England, the Environment Agency and the Council's ecological consultee had raised effects on designated sites in their representations, these bodies may also wish to provide observations. Given the role and expertise of these bodies, I consider that their views would be likely to be particularly important in informing all parties' consideration of the scheme and it is not possible to pre-suppose what the responses might be nor whether they might then necessitate further consideration or discussion. Moreover, I have noted above that the effect of the proposal on designated sites and matters of FLL were raised in representations on the proposal by interested parties. Accepting the further documents at this very late stage of the appeal process would deprive interested parties of an opportunity to provide any representations that they may have wanted to make on the material within, leading to procedural unfairness.
8. Having regard to these factors, I determined that it would be inappropriate to accept the appellant's late evidence. Consequently, it was returned and it does not form part of the evidence that is before me to consider in the appeal.
9. The currently adopted development plan includes the Maldon District Local Development Plan 2017 ('the LDP'). The Council is progressing a review of the LDP, and I have noted reference to potential options for accommodating future growth which are being considered as part of this review. However, the review is still at an early stage and subject to change and it therefore attracts very limited weight in my decision.

Main Issues

10. The main issues are:

- i) whether or not the proposal would be in a suitable location having regard to relevant development plan policies providing the Council's spatial strategy;
- ii) the effect of the proposal on the integrity of designated European and Ramsar sites;
- iii) the effect of the proposal on the character, appearance and identity of Latchingdon and surrounding countryside;
- iv) whether or not the proposal would be in a suitable location having regard to flood risk;
- v) whether or not the proposal would be in a suitable location having regard to future occupiers' access to services, facilities and sustainable transport modes; and
- vi) the effect of the proposal on the demand for and provision of local infrastructure with particular regard to foul drainage, education; healthcare - GP services; and highways.

Reasons

Location – Spatial Strategy

11. The main part of the appeal site comprises adjacent parcels of arable land which are located in countryside outside, albeit adjacent to, the settlement boundary of Latchingdon as defined in the LDP.
12. Policy S1 of the LDP outlines key principles for development which include seeking to deliver homes in the most sustainable locations. Policy S2 of the LDP further advises that strategic growth will be focused at the district's main settlements. A small proportion of growth is allocated to the rural villages to help to maintain sustainable rural communities, but the policy advises that strategic growth in the rural villages will be related to the settlement hierarchy, reflect the size, function and physical capacity of the settlement and will not result in unsustainable spatial patterns to the detriment of the wider area.
13. The LDP identifies Latchingdon as a 'smaller village'. It is not one of the main settlements or most sustainable locations which Policies S1 and S2 of the LDP broadly seek to focus growth on. Furthermore, the site is not within the village boundary and the appellant accepts that the proposal would not be for any of the types of development that Policy S8 of the LDP indicates may be permitted in countryside.
14. Given the resulting conflict with Policy S8 and lack of support from Policies S1 or S2 of the LDP, I conclude that the proposal would be contrary to the overall spatial strategy for growth and in this respect, the development would not be in a suitable location.

European and Ramsar Sites

15. The evidence before me indicates that recreational disturbance, hydrological effects and effects on FLL are all potential pathways by which the development could affect European and Ramsar sites.

Recreational Disturbance

16. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document 2020 ('the RAMS SPD') outlines that the Essex Coastline is home to internationally important numbers of breeding and non-breeding birds and their coastal habitats. A large proportion of the coastline is covered by European and national wildlife designations, with these sites identified as being vulnerable to recreational disturbance.
17. The RAMS SPD outlines a Zone of Influence within which new residents are likely to travel to the Essex coast sites for recreation. The appeal site is located within this overall Zone of Influence given its proximity to the Blackwater Estuary Special Protection Area ('SPA') and Ramsar site, the Crouch and Roach Estuaries SPA and Ramsar site, the Dengie SPA and Ramsar site, the Foulness SPA and Ramsar site and the Essex Estuaries Special Area of Conservation ('SAC') in particular.
18. Because the appeal proposes new residential accommodation within this Zone of Influence, it could contribute additional visitors to the Essex Coast sites leading to increased recreational pressure. Given the size and location of the proposal, Natural England advises that this pressure would arise both alone and in combination with other plans and projects, and I find that the development would therefore have a likely significant effect on the sites.
19. To mitigate the impacts of the development alone, Natural England advises that there should be access to on-site or nearby public open space which should as a minimum meet its Green infrastructure Standards.
20. The landscaping and layout of development are reserved matters. However, Natural England has commented that the required standard of at least 2.7ha green space would appear entirely achievable. Indeed, the appellant has confirmed that the suggested areas of woodland and meadowland which would be publicly accessible would significantly exceed this standard. The main parties also agree that a planning condition could ensure that provision to address green infrastructure standards was part of the design of development brought forward at reserved matters stage, with links to existing public rights of way offering potential for a walking route of at least 2.7km as sought by Natural England. On this basis, I consider that mitigation for the recreational effects of the development alone could be ensured.
21. In relation to 'in combination' recreational effects of development, the RAMS SPD outlines a strategic approach to delivering mitigation through a package of measures including provision of information and education; fencing, waymarking and screening; managing access; enforcement; habitat creation and monitoring. These measures are funded by a tariff on new residential development and the appellant has provided a completed Unilateral Undertaking pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) ('the UU') which secures a financial contribution in accordance with the required tariff. Natural England has endorsed the strategic solution to mitigation in the RAMS SPD which I consider would offer suitable mitigation for the in-combination recreational effects of the development.
22. I therefore consider that adequate mitigation for recreational disturbance effects of the proposal could be appropriately secured.

Hydrological Linkages

23. The appellant's Ecology Report notes that the survey area (which the Report states comprises the development boundary) is within 2km of the boundary of the closest designated sites comprising the Blackwater Estuary SPA and Ramsar site, the Crouch and Roach Estuaries SPA and Ramsar site and the Essex Estuaries SAC.
24. The Blackwater Estuary SPA supports nationally and internationally important populations of breeding, migratory and wintering waterfowl while the Blackwater Estuary Ramsar site qualifies by virtue of the extent and diversity of saltmarsh habitat, invertebrate fauna, saltmarsh plant communities and the species and assemblages of international importance that are present. The Crouch and Roach Estuaries SPA and Ramsar site is of importance including for wintering waterbirds, especially dark-bellied brent goose. The Conservation objectives for each of the SPAs seek broadly to ensure that the integrity of the site is maintained or restored and that the site contributes to achieving the aims of the Wild Birds Directive by maintaining or restoring the population and distribution of qualifying features, the extent, distribution, structure and function of the habitats of the qualifying features and the supporting processes relied on by the habitats.
25. The Essex Estuaries SAC is designated for qualifying features of estuaries, intertidal mudflat and sandflat, glasswort and other annuals colonising mud and sand, cord-grass sward, Atlantic salt meadow and Mediterranean saltmarsh scrub habitats. The conservation objectives for the SAC seek broadly to ensure that the integrity of the site is maintained or restored and that the site contributes to achieving the favourable conservation status of its qualifying species by maintaining or restoring the extent, distribution, structure and function of qualifying natural habitats and the supporting processes on which these habitats rely.
26. Table 4 of the Ecology Report highlights that water pollution from the development could impact the designated sites, noting the existing ditch network at the appeal site which drains into the watershed of the Blackwater Estuary via the Mundon Creek. Potential effects are noted at both construction and operational phases. The Environment Agency's initial comments on the proposal additionally highlighted hydrological connectivity from the site to the Blackwater Estuary and the consequent potential for waterborne pollution detrimental to designated sites. On that basis, I find that a likely significant effect on the designated sites through water pollution as a result of the proposal, either alone or in combination with other plans and projects, cannot be ruled out.
27. To address such effects, the Ecology Report recommends a strategy to mitigate the potential runoff of building materials during construction including a water management plan with installation of a drainage system including silt mats, flocculant treated mats and silt wattles to filter out construction waste and chemicals. Where possible, it recommends that construction wastewater is discharged at multiple points into existing sewage networks and as far from known natural water courses as possible. Such measures should form part of a Construction Environmental Management Plan ('CEMP'). During the operational phase, provision of an appropriate drainage system is recommended.
28. Insofar as a CEMP and details of the operational phase drainage system could reasonably and appropriately be secured by planning conditions, I see no firm reason to disagree with the view expressed by the main parties during the Hearing

that adequate mitigation for potential hydrological-related effects on designated sites could be appropriately secured.

Functionally Linked Land

29. I have noted above that the Essex Coast designated sites are important including for their wintering and breeding bird populations.
30. Appendix 2 of the appellant's Ecology Report identifies that the survey area is within the impact risk zone for the Blackwater Estuary, Crouch and Roach Estuary and the Cliff, Burnham on Crouch Sites of Special Scientific Interest ('SSSIs') which underpin the Blackwater Estuary and Crouch and Roach Estuary SPAs. In addition, Natural England advises that the area is in close enough proximity to coastal sites supporting birds that forage up to around 15km from the coast for there to be a reasonable likelihood of the site being functionally linked from an ecological perspective to the coastal ecosystems which comprise the designated sites and support their interest features.
31. Accordingly, Natural England advises that information should be collected to determine whether agricultural land on the site is FLL which may involve a desk study of existing bird records and/or up to two years of winter bird surveys to exclude the possibility of FLL. Alternatively, the appellant may wish to consider the approach of assuming the site is FLL and providing compensatory habitat in line with this assumption.
32. In their response to my pre-Hearing note and in discussion on this main issue during the first day of the Hearing, the appellant confirmed that they had adopted the approach of assuming that the site was FLL. On the second day of the Hearing however, the appellant sought to argue that the site may not comprise FLL. They referred to permission granted on appeal for 160 dwellings on Land North of The Groves, Burnham Road¹, asserting that the same Essex Field Club data which had informed the Ecology Report had also been used in that case where the site was accepted by Natural England as not comprising FLL. However, I do not have full details of the ecological information presented in that appeal before me, and I note in particular that the appeal decision refers to a shadow Appropriate Assessment provided by the appellant which informed the specific consideration of effects on European Sites. No such assessment has been provided in the current appeal.
33. In terms of the evidence that **is** before me in this appeal, the summary of baseline information at 1.1.4 of the Ecology Report indicates in respect of birds that multiple species have been recorded, mainly associated with the SPAs; that suitable habitat occurs throughout the survey area and that arable land provides habitat for wintering bird species. It also confirms in relation to birds that further ecological surveys are required. Whether or not any underpinning secondary data was equivalent to that used in the Land North of the Groves scheme, this assessment in the appellant's Ecology Report could not in my view reasonably be read as a finding that the possibility of FLL could appropriately be excluded on the basis of desk study in this particular case.
34. In addition, paragraph 1.1.3 of the Ecology Report and the project overview beneath indicate that wintering bird surveys are recommended to inform habitats regulation assessment. Paragraph 7.1.4 of Appendix 2 to the Ecology Report

¹ Appeal ref APP/X1545/W/23/3331398

further states that 'to understand the likely impact ahead of reserved matters, a wintering bird survey is recommended. Without this information, it is not possible to determine impacts on the SSSIs/SAC/SPA.' It continues that 'should wintering birds utilise the habitat present within the survey area, a Habitats Regulations Assessment will be required to determine whether these protected sites will be adversely affected'.

35. Moreover, Table 4 of the Ecology Report states that some species which use the nearby designated sites may use the habitats on the site for foraging and refuge particularly during winter or as refuge when on passage during the spring and autumn including waterfowl and wading species. Survey effort is therefore recommended to understand the use of the site by wintering or migrating bird species. In relation to 'birds' as an ecological receptor, it further sets out that overwintering bird surveys are required to determine whether the land is being used by species utilising the SPA and as such is functionally connected. Notwithstanding the rights of way on and around the site and nearby urban development which could give rise to some disturbance, the Ecology Report does not therefore discount potential for a functional connection to designated sites and instead recognises a need for further survey to be able to consider this matter further.
36. The appellant highlighted paragraph 7.1.5 of Appendix 2 to the Ecology Report which suggests that habitats within the survey area are unconnected to the SSSIs and have been scoped out of further assessment. However, this is not explained further and appears to me to be inconsistent with the comments made elsewhere in the Ecology Report as noted above recommending further survey work in relation to birds. In this context and noting that birds are mobile species such that a direct connection between habitats would not necessarily be required for the appeal site to be utilised, Paragraph 7.1.5 of Appendix 2 does not in my view offer compelling evidence that FLL potential can be excluded.
37. Furthermore, the Habitats Regulations require consideration of the implications of any plan or project before deciding to give any consent, permission or other authorisation which would include a decision to grant outline planning permission. It is not possible to defer assessment to reserved matters stage as the recommendation for wintering bird survey ahead of reserved matters at Paragraph 7.1.4 of Appendix 2 to the Ecology Report appears to suggest.
38. No results of any further bird survey are before me as part of the appeal. In the absence of such information, I find having regard to the context noted above that insufficient evidence has been provided to be able to determine with confidence that the site does not comprise FLL, particularly given that this would be contrary to the appellant's initially stated position in their response to my pre-Hearing note and the Hearing discussion on the main issue.
39. Mindful of the precautionary approach that is to be taken in considering effects on European Sites, I therefore consider on the basis of the information before me in this appeal that FLL potential cannot reasonably be excluded.
40. In considering effects on FLL, the Ecology Report notes that the proposal would result in potential direct loss of breeding, refuge and foraging habitat during vegetation clearance to facilitate the development and that disturbance and dust pollution during construction could also adversely impact birds. The presence of built development would also result in permanent loss of existing habitat across a

reasonable proportion of the site on completion. The resulting potential for these outcomes to adversely affect qualifying features of designated sites that may be utilising the appeal site as FLL mean that I find a likely significant effect on designated sites cannot be ruled out.

41. In their response to my pre-Hearing note, the appellant indicated that compensatory habitat would be provided to address effects on FLL, referring to the delivery of significant landscaping including new woodland planting and meadowland. However, while this may offer an overall biodiversity net gain ('BNG') on the site and meet requirements for public open space to mitigate recreational disturbance effects, I have no substantive ecological evidence demonstrating whether and to what extent landscaping would offer suitable compensatory habitat for FLL. Table 4 of the Ecology Report does suggest that the landscaping proposals include the incorporation of significant breeding bird habitat. However, the appellant accepted during the Hearing that there is no firm detail to indicate that the habitat would be suitable breeding habitat for birds comprising qualifying features of the SPA specifically. There is also no firm detail to indicate that it would offer suitable foraging and refuge habitat which these species may rely on the site for as FLL. Even if the habitat would in principle be suitable, there is additionally no clear ecological evidence to show that the area of habitat would be sufficient to adequately mitigate the effects of development on FLL.
42. Moreover, the Ecology Report notes that residential dwellings will bring predators in the form of cats, and that dogs will chase birds. I have also noted above that there would be a requirement to provide access to public open space as part of measures to mitigate recreational disturbance on the Essex Coast sites. Whether or not the overall area of landscaping would exceed the recommended standard, it would be close to residential dwellings and the appellant has indicated that the new woodland and meadowland on the site would provide accessible open space. Without any detailed ecological assessment, I cannot be sure that landscaping could provide suitable compensatory habitat for FLL while also providing publicly accessible open space given the apparent potential for conflict between such functions as was noted by the Council during the Hearing.
43. Taking these matters together, I find that there is insufficient evidence to demonstrate with the necessary degree of confidence that compensatory habitat would offer adequate and effective mitigation or compensation for the effects of development on FLL.
44. The appellant has proposed that a planning condition could be imposed which would essentially require a 'wintering bird mitigation strategy' prior to reserved matters stage. It is suggested that this would include wintering bird surveys recommended in the Ecology Report; an assessment of the impact of the development on identified bird populations; and details of a bespoke mitigation and compensation package (such as the provision of off-site replacement habitat or on-site refuge areas) designed to ensure no adverse effect.
45. However, the provision in the condition for wintering bird surveys and impact assessment would be required to determine what if any impact the proposal would have on FLL, the significance of the impact, and consequently any requirement for mitigation or compensation. From the evidence before me, I am not satisfied that it is possible to determine beyond reasonable scientific doubt at the current time that the proposal would not impact on bird populations using the site as FLL. Nor that

mitigation and compensation would be effective, particularly given that the extent of any effect is currently unclear and my concerns above in respect of a lack of ecological detail to demonstrate that mitigation or compensation would be effective. I further note that the suggested condition appears to anticipate that mitigation and compensation could include off-site replacement habitat, but I have no firm information to demonstrate that this could be achieved should it be necessary.

46. I acknowledge that this is an outline application and that the condition would require details to be approved before development could take place and indeed before reserved matters. Nevertheless, I must adopt a precautionary approach in exercising my duty to protect the designated sites. In my judgement, the current level of uncertainty around the extent to which the proposal might affect FLL and whether or not there would be adequate scope to provide suitable and effective mitigation and/or compensation for effects is significant such that it would not be appropriate or reasonable to defer this matter to a planning condition which the appellant may be unable to discharge. The suggested condition would not therefore meet the tests for conditions stipulated in the Framework, and should not be imposed. Accordingly, it would not offer the required assurance that the proposal would not adversely affect the integrity of designated sites.
47. Natural England advised that further information would be required to consider FLL effects of the proposal. For the reasons above, I agree. I cannot be satisfied on the basis of objective and credible evidence that effects on FLL would not be detrimental to features of the SPA and Ramsar sites, and I find that there is insufficient information to ascertain beyond reasonable scientific doubt that the proposal would not have an adverse effect on the integrity of Essex Coast designated sites. In the circumstances and because I as the competent authority am not in any event satisfied, I have not considered it necessary to re-consult Natural England as part of the appeal.

Conclusion on Main Issue

48. I have found above that there would appear to be scope to secure adequate mitigation for the potential effects of the development on designated sites associated with recreational disturbance and hydrological connectivity. As the competent authority however, I am not satisfied from the information before me that likely significant effects on FLL can be excluded or adequately and appropriately mitigated or compensated.
49. Therefore and mindful of the precautionary approach that should be taken in exercising my duty to protect European sites, I conclude that adverse effects on the integrity of designated sites cannot be ruled out. I have no firm reason to find that there are no alternative sites that could accommodate the development with lesser effects on the integrity of the designated sites, nor that there are imperative reasons of overriding public interest that would outweigh the adverse effects. In these circumstances, the operation of the Habitats Regulations would preclude the proposal from proceeding. The proposal would also be contrary to the Framework's objectives for the protection of biodiversity and the conservation of the natural environment, and given that it has not been demonstrated that significant harm to biodiversity can be avoided, adequately mitigated or compensated, then paragraph 193 of the Framework indicates that permission should be refused.

50. Furthermore, the proposal would be contrary to Policies S1, D1 and N2 of the LDP insofar as they together broadly require conservation and enhancement of the natural environment, and set out that 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.

Character, Appearance and Identity

51. The appellant's Landscape and Visual Impact Appraisal ('LVIA') sets out that the appeal site is, at the most local level, within the E2 Tillingham and Latchingdon Coastal Farmland Landscape Character Area ('LCA') as identified in the Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments 2006. Key characteristics of this LCA include gently undulating farmland behind coastal marshland, distinctive long hedgerow boundaries and settlement patterns that follow underlying soils. Other characteristics include a mainly rectilinear field pattern, often with noticeable right-angled bends, crossed by drains and ditches.

52. Insofar as it comprises broadly rectilinear parcels of arable farmland with hedgerows and ditches, the appeal site exhibits some of the key characteristics of LCA E2. These features confer a pleasant, generally rural quality to the site itself and it is clearly appreciated as part of the countryside around Latchingdon, albeit that development within the village is an urbanising influence along the north and east site boundaries. Nevertheless, the LVIA highlights that the site and surrounding landscape is not rare in the local context. The Council has not argued that the site is part of a valued landscape in the terms of the Framework and based on the evidence before me and my observations, I see no firm reason to take a different view.

53. While the layout, appearance, scale and landscaping of the proposal are reserved matters, the introduction of built development and associated activity would inevitably be urbanising and result in significant change to the current character of the site as countryside which is part of the generally rural setting to Latchingdon.

54. However, the illustrative details indicate that existing hedgerow would largely be retained and that reasonably generous areas of landscaping could be provided including around much of the site boundaries with significant new planting. This would help to both moderate and soften the effect of the built form and provide a transition to the surrounding countryside.

55. I acknowledge that the historic form of Latchingdon may have been broadly linear, but it is clear that this has already been much altered through later development providing for a more diverse settlement pattern which includes cul-de-sacs and nucleated forms. The proposal would be a further departure from the historic linear form of Latchingdon, but it would not be out of keeping with the existing village so as to harmfully distort the settlement pattern or character. I further have no firm reason to find that it would not otherwise be possible to bring forward development of a form and design that would adequately respect the character and identity of Latchingdon at reserved matters stage.

56. The Council suggests that other development permitted since 2014, including the 160 dwellings permitted at Land North of The Groves, Burnham Road on appeal provide for significant growth of Latchingdon which is categorised as a 'small village'. Nevertheless, I agree with comments in the Land North of The Groves

appeal decision that enlargement of the village does not, of itself, mean that the identity of the village would be compromised or harmed. The current proposal would further increase the size of Latchingdon, but even when taken cumulatively with the other permitted developments I find no compelling evidence demonstrating that it would unacceptably dominate or overwhelm the existing village. Nor that it would result in an incongruous or discordant addition that would undermine the village's wider rural context overall. Instead, I consider that it would be appreciated as a logical element of the settlement's growth over time.

57. Nevertheless, the proposal would result in the existing village edge encroaching further into the countryside around Latchingdon. Potential for new planting would not in my view fully mitigate the urbanising effects of development on this part of the countryside setting to the village, far less result in a beneficial overall effect as the appellant suggests, and I find that there would as a result be some harm to the landscape character of the area. That said, effects would be largely limited to the site itself. I am also satisfied that development could be designed to integrate acceptably with its surroundings so that the degree of harm to landscape character would be limited and even when considered with other recent and permitted development, I find that Latchingdon's identity would not be unacceptably compromised.
58. In terms of visual effects, the development would be visible from viewpoints including rights of way running through and alongside the site and within the surrounding area, as well as in views from The Street and properties around the site. The LVIA identifies that the development would have a slight or slight-moderate adverse effect at year 1, but that visual effects would be beneficial by year 15 once planting matured. However, planting would be unlikely to fully screen the proposal and there would be likely to be some appreciation of development on the site as a marked change from the existing agricultural fields, particularly for users of the rights of way crossing the site where development would be apparent at close range. I acknowledge that there is limited landscaping to the existing settlement edge and that the proposal with planting could provide a greener and softer transition to the countryside. In my assessment however, this would not fully offset or mitigate the visual impact of the encroachment of urbanising development into the rural setting around Latchingdon and I consider that the overall effect would remain adverse by year 15.
59. Even so, the visual impact would be localised. Given too that the proposal would assimilate suitably with Latchingdon, it would not be wholly uncharacteristic here and I therefore consider the effect would be minor.
60. For these reasons, I conclude that the proposal would not cause undue harm to the identity of Latchingdon, but that there would be some harm to the landscape character and appearance of the countryside which provides the rural setting to the village. This harm would be limited and localised, but would nevertheless be contrary to requirements within Policies S1 and D1 of the LDP broadly seeking development that respects and enhances character and local context including in terms of landscape setting and maintenance of the rural character of the District. It would also be contrary to Policy S8 of the LDP insofar as it sets out that permission will only be granted for development outside settlement boundaries including where the intrinsic character and beauty of the countryside is not adversely impacted on.

Location – Flood Risk

61. The Framework outlines that inappropriate development in areas at risk of flooding should be avoided and that where development is necessary in such areas, it should be made safe for its lifetime without increasing flood risk elsewhere. It sets out specific requirements for application of the sequential test, and, in some cases, the exception test.
62. The majority of the appeal site is at low risk of flooding, but there are some areas located within fluvial flood zones 2 (medium probability) and 3 (high probability). The site also includes areas identified as being at risk of surface water flooding.
63. Despite the presence of areas of flood zone, the appellant argued that the sequential test would not be required because the proposed parameters plan indicates that all development parcels would be outside of the identified flood zones. However, paragraph 175 of the Framework only indicates that the sequential test need not be applied in situations where no built development, including access **or** escape routes, would be located on an area that would be at risk of flooding (my emphasis). This differs from the appellant's presentation of the provision as relating to situations where no built development, including access **and** escape routes would be located on an area that would be at risk of flooding.
64. In addition, the Planning Practice Guidance ('the PPG') indicates that the sequential test does not need to be applied if a site-specific flood risk assessment clearly demonstrates the safety of occupants and users from current and future surface water flood risk for the lifetime of the development without increasing flood risk elsewhere. However, there is no similar provision in respect of fluvial flood risk.
65. In this case, the access road serving development parcels to the eastern section of the site would cross both fluvial and surface water flood zones. An additional escape route from the east part of the site which would not cross flood zone areas is indicated, but this would only provide vehicular access for emergency services. In any event, given that the proposal includes an access route located on an area that would be at risk of flooding, including from fluvial sources, this is not a situation where I find the Framework to indicate that a sequential test is not required.
66. The sequential test provides that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
67. Despite their case that it was not required, the appellant did provide some information to support the application of a sequential test. They indicated that a review of sites allocated in the LDP; assessed in the most recent strategic housing evidence; and being actively marketed within the 'Rural South' sub area as defined in the Maldon District Local Housing Needs Assessment 2021 did not identify any reasonably available sites. Further, that neither of two possible sites being marketed across the whole of the district would offer suitable alternatives. The Council's committee report on the application additionally referred to a wider assessment carried out by officers to consider the sites allocated in the LDP across the main hierarchy of settlements, none of which were considered to offer available alternatives. With reference to these reviews, the Council's report to committee had concluded that there were no suitable alternatives to the site.

68. Nevertheless, the Council's appeal statements highlight advice in the PPG that 'reasonably available sites' for the purpose of the sequential test are 'those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. These could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered 'reasonably available'. Although the Council has not put forward specific alternative sites that the appellant had failed to consider, it did highlight the Housing and Economic Land Availability Assessment 2023 ('HEELA') as identifying a significant number of sites in the District.
69. The appellant indicated that sites in the HEELA were not assessed as they would already be attached to land promoters or developers, advising at the Hearing that the approach had been agreed with Council officers. Be that as it may, I am not persuaded that this is a compelling justification to depart from the advice in the PPG confirming that lower-risk sites do not need to be owned by the applicant to be considered 'reasonably available'. In the absence of a robust assessment considering sites within the HEELA, it has not been demonstrated that none would offer reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding and this omission means that I am not fully satisfied that the sequential test would be passed.
70. If the sequential test were to be passed, the exception test would then need to be applied.
71. The first part of the exception test requires that the development would provide wider sustainability benefits to the community that outweigh flood risk. I consider the benefits of the proposal in more detail below, but in my judgement, sustainability benefits to the wider community, in particular those related to the provision of housing and affordable housing in the context of existing shortfalls would be sufficient to outweigh the flood risk. The Council's confirmation at the Hearing that it was not seeking to argue otherwise reinforces my conclusion on this.
72. The second part of the exception test requires that development would be safe for its lifetime taking account of the vulnerability of its users without increasing flood risk elsewhere and that it would, where possible, reduce flood risk overall. In this respect, I have noted above that development parcels are set outside of flood zones. The access route within the site would cross flood zone, but there would remain alternative access and egress for development beyond the flood zone via the emergency access to the east part of the site, albeit that use would be limited to pedestrians, cyclists and emergency vehicles. Modelling also indicates that flood depths and hazards where flows would cross the access would be sufficiently low that passage for emergency vehicles would not be prevented.
73. The appellant's Flood Risk Assessment and Drainage Strategy additionally indicates that finished floor levels would be set at least 300mm above peak modelled flood levels and that all residential development would be designed to ensure safe refuge during an extreme residual flood risk event. The main parties also agreed that a flood response plan to include details of flood warnings and emergency response could be sought by a condition.

74. Furthermore, the appellant has provided modelling demonstrating that the development would not increase flood risk elsewhere, and that there would in fact be some areas where flood risk would be reduced, albeit that the degree of improvement would be very slight. Subject to a planning condition to require updated modelling based on the final scheme design and investigation of the potential to remove existing culverts offering environmental enhancements and improvement to flood risk, the Environment Agency does not object to the proposal on flood risk grounds. Nor has the Council provided any technical or other compelling evidence to challenge the appellant's evidence that the development would be safe for its lifetime and would not increase flood risk elsewhere.
75. The Council also accepted at the Hearing that there was no firm evidence to suggest that opportunities to reduce the causes and impacts of flooding or provision for sustainable drainage systems, flood resilient design, safe access and egress and use of green infrastructure as part of flood mitigation could not be adequately addressed at reserved matters stage.
76. I acknowledge that flooding is an existing concern locally. Taking these matters together however and in the absence of compelling evidence to the contrary, I am satisfied having regard to the circumstances of the appeal site and subject to conditions that the development would be safe for its lifetime taking account of the vulnerability of its users and that it would not increase flood risk elsewhere.
77. I am therefore satisfied that had the sequential test been passed, the exception test would also be passed and the proposal would accord with Policies S1 and D5 of the LDP insofar as they include requirements that development does not increase flood risk and is safe and flood resilient.
78. On that basis and given that it is only part of the access road that would be directly affected and the extent of the indicated flood risk, I further consider that adverse effects resulting from the proposal's failure to fully satisfy the sequential test would be limited.
79. Nevertheless, this failure means that I am unable to conclude that the proposal would be in a suitable location having regard to flood risk. Although it is only part of the access road that would be directly affected and I consider that adverse effects stemming from the failure would be limited, there would be conflict with Policy D5 of the LDP which includes a requirement for development to demonstrate that the sequential test has been satisfactorily undertaken in accordance with national policy. There would also be conflict with Policy S1 of the LDP insofar as it seeks to ensure that development is only located in flood zones when it is not possible to avoid such areas.

Location – Accessibility

80. The LDP indicates that the 'smaller villages' which include Latchingdon are settlements containing few or no services and facilities, with limited or no access to public transport and very limited or no employment opportunities. The Council's Rural Facilities Study 2023 and the emerging LDP Review had suggested that Latchingdon be re-classified as a 'larger village'. Given however the early stage of the LDP Review, that the evidence is untested at this point, and that parties including the County and Parish Councils have raised concerns over the suggested approach, this attracts limited weight in my decision.

81. Nevertheless, there are some services and facilities in Latchingdon including local shops, a primary school, village hall and pub which would be within reasonable walking distance of the appeal site. The proposal also includes provision for new employment space and a village centre as well as public open space. Interested parties suggest that there would be no need for additional provision of this type, but it seems to me that employment space in particular could benefit access for both the existing community and future occupiers of the site.
82. Occupiers would need to travel to access a full range of services including higher order shopping, healthcare, secondary schools and other employment. Given the distances involved and conditions along routes to larger settlements with a range of services and facilities, they would be unlikely to do so on foot or by cycling.
83. However, there are bus stops within reasonable walking distance of the appeal site served by routes which offer connections to destinations including Chelmsford, Burnham, Maldon and Southminster. I note concerns which have been raised around the reliability of services and that some are relatively limited and do not operate on Sundays or evenings. Even so, I consider that the range of routes could offer a realistic alternative to the private vehicle for at least some trips.
84. Given these factors, there would be some opportunities for future occupiers of the site to access services by sustainable travel modes. I accept that this would not be realistic for all trips and there would be a degree of dependence on private vehicles. Nevertheless, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Moreover, I note that previous appeal decisions including that for Land North of The Groves, Burnham Road have considered Latchingdon to be a reasonably sustainable and accessible location. The evidence before me does not provide a compelling basis that would lead me to take a different view in this case.
85. Notwithstanding that there would be some dependence on travel by private vehicles, I conclude for these reasons that the proposal would on balance be in a suitable location having regard to future occupiers' access to services, facilities and sustainable transport modes. In this respect, I do not identify unacceptable conflict with Policies S1 or S2 of the LDP insofar as they include requirements broadly seeking sustainable development patterns, to minimise the need to travel and to prioritise sustainable modes of transport.

Infrastructure

86. The LDP advises that significant infrastructure constraints in the district informed and shaped the Plan's spatial strategy. My attention has also been drawn to comments in the Inspector's report on the examination of the LDP highlighting highways and schools capacity as a significant constraint to growth above that allocated in the plan and a lack of evidence to demonstrate that a greater level of housing could be satisfactorily accommodated. Nevertheless, while that may provide context to the overall strategy of the LDP, it is not in itself compelling evidence that there would necessarily be inadequate infrastructure to accommodate any particular development. It is instead necessary to consider the specific circumstances of the proposal.
87. In this case, the Council raises particular concerns around the demand for and provision of foul drainage, education, GP services and effects on highways.

Foul Drainage

88. Anglian Water's comments on the proposal advised that there is insufficient capacity at the Latchingdon Water Recycling Centre to treat foul water from the development, leading to environmental risk and increased discharge rates which could lead to deterioration in water quality. They further indicate that there are no current plans to upgrade capacity at Latchingdon as part of the Asset Management Plan 2025-2030.
89. However, the Framework advises that it should be assumed that pollution control regimes will operate effectively. Furthermore, while objecting to the proposal, Anglian Water also suggested a planning condition which would effectively require approval of a foul water strategy demonstrating a sustainable point of connection to the public foul network before development took place and for drainage to be in place before occupation.
90. The PPG explains that a 'Grampian style' condition prohibiting development or linked aspects such as occupation until a specified action has been taken, such as the provision of supporting infrastructure, should not be used where there are no prospects at all of the desired action being performed within the time limits imposed by the condition. However, I agree with the Council's position at the Hearing that while Anglian Water's lack of current identified plans to upgrade capacity at Latchingdon raises some uncertainty, there would still be at least some prospect of delivery enabling the condition to be discharged. Moreover, the Council did not dispute the appellant's evidence that there would be potential alternative solutions to manage foul water from the development unless and until there was sufficient capacity available within the public network. This would offer further scope for a solution.
91. The Council confirmed at the Hearing that with the imposition of a planning condition in line with that suggested by Anglian Water but amended to reflect potential for an alternative approach to reliance on the public network to be demonstrated, it would have no objection in respect of foul water. I have no firm reason to take a different view and I am satisfied that with a planning condition, there could be acceptable provision for foul drainage to serve the development without resulting in detriment to watercourses or the environment.

Education

92. Essex County Council ('ECC') indicates that the development would be within the Priority Admission Area of Christchurch Primary School in Latchingdon which would currently have insufficient space for the number of primary school age pupils that would be expected from the development. However, while the Council's written evidence had referred to comments from ECC on another application suggesting that the school is not suitable for expansion, ECC advised in respect of the current appeal that it has sufficient land to be expanded to admit additional pupils and that additional space may also be made available for bulge groups. It further advised that a longer-term expansion project may become feasible.
93. In respect of secondary education, the Council asserted that there would be no scope to further expand the Plume Academy to accommodate pupils from the development. However, ECC indicates that the development would be within the Priority Admission Areas of Ormiston Rivers Academy and the William de Ferrers School, both of which it suggests would have sufficient land to expand. Although it

notes that there are constraints so that detailed feasibility studies would be necessary and I note comments suggesting that expansion could affect available playing field land, it therefore appears that there would be potential to increase secondary school place capacity.

94. Furthermore, the appellant's UU includes provision for a financial contribution towards the creation of primary and secondary school places in accordance with the approaches outlined in the ECC Developer's Guide to Infrastructure Contributions 2024 ('the DGIC'). In light of ECC's submissions, the appellant accepted at the Hearing that the contributions would be necessary, directly related to the development and fairly and reasonably related in scale and kind to the development in accordance with tests for planning obligations outlined at Regulation 122 of the Community Infrastructure Levy Regulations 2010 ('the CIL Regulations') which are also reflected within the Framework. From the information before me, I agree.
95. ECC is satisfied that the contributions in the UU would be adequate to accommodate needs for primary and secondary education arising from the development which it would have been able to consider in the context of development proposals coming forward across the district and the wider Essex area. I give significant weight to its position as the responsible Local Education Authority and from the evidence before me, find no compelling reason to take a different view. Accordingly, I consider there would be acceptable provision for education to serve the development.

GP Services

96. Mid and South Essex Integrated Care System ('the ICS') advises that the proposal would result in additional demand for healthcare services, which the closest GP surgeries to the site would not have capacity to accommodate. The ICS therefore seeks a financial contribution towards the provision of additional floorspace to meet the demand generated by the development.
97. A planning application for expansion of Trinity Medical Centre was refused in 2019 owing to a lack of evidence around parking issues. However, it is unclear from the evidence before me that this would be insurmountable. Even if it was, I have no firm evidence to suggest that the Maylandsea medical centre would be similarly constrained and noting the ICS's comments that capacity could be provided through any combination of extension, reconfiguration or relocation of premises, I am not persuaded that capacity could not realistically be provided.
98. The UU includes provision for the contribution sought by the ICS and from the evidence before me, I find that the development would make acceptable provision to meet needs for GP services.

Highways

99. I have found above that occupiers of the site would have some dependency on private vehicles and the proposal would undoubtedly result in additional traffic movements on the highway network. The Council and interested parties raise concern about existing congestion locally and that incidents can already have significant effects on the routes that serve the Dengie peninsula. However, the technical evidence before me indicates that the proposed site access junction and the junction of Maldon Road with Cold Norton Road would operate comfortably

within capacity when taking account of growth factors and other committed developments in the area. Although ECC as the Local Highway Authority indicated that it would not agree with some of the trip generation and trip distribution figures in the appellant's assessment, it does not dispute the overall conclusions nor raise concerns about the effects of additional traffic on the wider network, whether individually or cumulatively.

100. The Framework provides that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. While constraints on the wider highway network may have been an area of concern in the examination of the LDP, the Council has provided no compelling evidence that the proposal would cause harm in respect of highway capacity contrary to the position of the Local Highway Authority that effects would be acceptable, far less that any harm would be severe.
101. On the strength of the evidence before me, I consider that the development would not lead to unacceptable impacts on the capacity of the highway network.

Conclusion on Main Issue

102. I appreciate concerns raised by the Council and interested parties referring to existing pressures on local infrastructure. For the reasons above however and subject to planning conditions and provision within the UU, I conclude that the proposal would make appropriate provision for local infrastructure to address demand. It would not therefore conflict with Policies S1, S2 or I1 of the LDP insofar as they broadly require development to demonstrate sufficient infrastructure capacity to support development and mitigate identified issues and to provide an appropriate level and type of infrastructure.

Planning Obligation

103. I have considered planning obligations within the UU in light of the tests outlined at Regulation 122 of the CIL Regulations which are reflected in the Framework.
104. Obligations securing affordable housing and an employment and skills plan address requirements set out within Policy H1 of the LDP and the DGIC, and are therefore necessary to make the development acceptable in planning terms. They would also be directly related to the development proposed and fairly and reasonably related in scale and kind to it.
105. The RAMS financial contribution would reflect the tariff approach in the RAMS SPD, and in light of my findings above, it would be necessary to mitigate recreational disturbance effects of the proposal on designated sites. A financial contribution providing for monitoring of the travel plan would be necessary to support sustainable travel choices in accordance with the Framework and development plan and would reflect the amount indicated in the DGIC.
106. I have no reason to consider that the formulae and charges which inform financial contributions towards libraries, early years and childcare, primary education, secondary education, secondary education transport and healthcare are unsound. The Community Infrastructure Levy Regulations Compliance Statement provided by ECC, the addendum provided by the Council and representations by the ICS offer further explanation and justification for the contributions sought, detailing why

they are necessary as a result of the development and how they would be spent. The appellant had initially queried the justification for some of these contributions, but having considered further information provided by the Council and ECC, they accepted at the Hearing that they would be necessary. I see no firm reason to take a different view.

107. I am satisfied that these obligations would in each case be necessary to make the development acceptable in planning terms, that they directly relate to the development, and fairly and reasonably relate in scale and kind to the development. They would comply with the tests at Regulation 122(2) of the CIL Regulations, and I have therefore taken them into account.
108. The UU also includes a Bus Service financial contribution which the Council advised would provide for additional bus services. However, I have not been directed to any standard formula or charge that underpins the amount of the contribution. Nor has other detail to explain how the specific contribution amount has been calculated in this case been provided, despite the Council undertaking to provide clarification within a short period after the Hearing. Whether or not a contribution of this type would be necessary in principle, I am therefore unable to determine that the contribution amount within the UU would be necessary or fairly and reasonably related in scale and kind to the development. Accordingly, it would not meet the tests as required by the CIL Regulations and I have not given this obligation weight in my decision.
109. The UU additionally includes provision for monitoring fees. The Compliance Statement provided by ECC explains the basis for the County Council monitoring fee including how it has been calculated and I have no firm reason to doubt that this would be fairly and reasonably related in scale and kind to the development and estimated costs of monitoring. It would therefore accord with Regulation 122 of the CIL Regulations. However, I have not been provided with any explanation of how the District Council monitoring fee has been calculated, nor any other detail to demonstrate that it would be fairly and reasonably related in scale and kind to the development and estimated costs of monitoring. I am therefore unable to determine that it would accord with the tests at Regulation 122 of the CIL Regulations.

Other Matters

110. There are Grade II listed buildings in the vicinity of the appeal site at the Lion Public House; Chestnuts, Anchor Cottage and Christ Church, Latchingdon. The Council's committee report records considerable change within the setting of all of these buildings since the early 20th century and notes that while the proposal would introduce additional change, it would not reduce the ability to appreciate the significance of nor affect any primary views towards or of any of the assets. The main parties agree that there would be no harm to the setting or significance of the listed buildings and I have no firm reason to take a different view. The proposal would not therefore conflict with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special regard to the desirability of preserving the buildings, their setting or any features of special architectural or historic interest.
111. The proposal would result in the loss of 'best and most versatile agricultural land'. Noting the requirement in the Framework for recognition of the economic and other benefits of best and most versatile agricultural land, this weighs against the

proposal. However, the Council's report to Committee notes that the majority of the district is classified as 'best and most versatile agricultural land' with the small pockets of lower grade land unsuitable for development. In this context, the Council considered the loss of agricultural land would not form a tenable reason for refusal. I agree, and the loss of agricultural land attracts limited weight in my decision.

112. I have considered additional concerns raised by interested parties including in respect of effects on air quality, protected species, neighbouring occupiers, safety, and that trade would be drawn from existing businesses. However, none of the other matters raised alter my findings on the main issues or overall balance.

Benefits of the Proposal

113. The Framework highlights the Government objective to significantly boost the supply of homes. The Statement of Common Ground ('the SoCG') indicates that the Council is unable to demonstrate a five-year supply of deliverable housing sites as the Framework requires. It refers to a current supply of 2.7 years which is a considerable shortfall, approaching around 1,400 dwellings. I note that the position stated in the SoCG is an officer recommendation which has not been formally agreed by the Council, and reference in the Council's statements to an alternative member assessment suggesting a supply position of 4.12 years. Full details of that assessment were not included to substantiate that position, but it would in any event still fall short of the required five-year supply.
114. I appreciate that the lack of a five-year supply reflects changes to the housing requirement which is to be calculated by the Government's standard method given the age of the LDP, rather than a failure of the LDP to deliver the level of housing anticipated in the plan. Indeed, the Council suggests that targets have been exceeded to date. Even so, the Council is currently unable to demonstrate a five-year supply of housing. Furthermore, the Council suggested during the Hearing that there was a strong possibility that it may have a five-year supply by next year, but in the absence of firm evidence to demonstrate this, I can afford little weight to the assertion.
115. Against this context, the provision of up to 140 dwellings on the site is an important benefit. Notwithstanding current constraints on foul water capacity, I am not persuaded given my findings above that this would necessarily preclude development coming forward in the relatively short term and while the full site may be unlikely to complete within 5 years, I consider at least some completions could be possible. The site would in any event contribute to maintaining a supply of housing going forward. Given these factors, I afford significant weight to the benefit of housing delivery.
116. In addition, the proposal includes 40% affordable housing which could provide up to 56 affordable dwellings. The Council asserts that the LDP will deliver a significant number of affordable homes with additional provision from windfalls. Be that as it may, the information before me indicates that past supply of affordable housing has been significantly below the level of need identified in the Local Housing Need Assessment 2021, updated 2025 ('the LHNA'). The LHNA is not a policy target or requirement, but I have no firm reason to find that it does not offer a reasonable assessment of the current level of need for affordable housing, and it is unclear from the submitted evidence that the identified supply will fully address the total level of need, far less historic shortfalls.

117. The development would be set in countryside outside of the key urban areas which may be likely to be best placed to meet the needs, but could still contribute to meeting need. Balancing these factors, I afford significant weight to the benefit of affordable housing.
118. As well as affordable housing, the appellant refers to provision of a diverse mix of homes including homes suitable for the elderly and self build/custom housebuilding ('SBCH') plots. The main parties consider that these could be secured by a planning condition requiring 15% of the dwellings as single-storey properties and 5% as SBCH.
119. The appellant suggests that the single-storey dwellings would meet an identified need for bungalows, but I consider it unclear that the location of the development in countryside outside of the key urban areas would be best placed to meet the needs of older people. The number of homes delivered would also be relatively small and I afford limited weight to this factor.
120. I have some reservations about securing SBCH through the suggested condition given the lack of any mechanism to ensure that plots would go on to be occupied as SBCH in accordance with the Self-Build and Custom Housebuilding Act 2015 (as amended). In any event, the appellant has not disputed that duties under that Act to provide for needs as shown on the SBCH register are currently being met and while the LHNA does suggest that there could be additional demand, the number of plots that the proposal would deliver would again be relatively small. Given these factors, I afford limited weight to the provision of SBCH.
121. There would be economic benefits, both during construction including opportunities for employment, and on occupation including spending and support for local services by future occupiers and opportunities for employment, local businesses and start ups and revenue generation associated with the proposed commercial units. Noting that these benefits have not been quantified in the evidence and that those associated with the construction stage would be temporary, I concur with the main parties that they attract moderate weight.
122. Insofar as the existing community would also be able to access the proposed new public open space, recreation facilities, allotments, village centre and footpath connections, there would be some wider social benefit. The Council's Green Infrastructure Strategy Supplementary Planning Document 2019 indicates a deficiency in allotment provision across the District, but my attention has not been drawn to firm evidence indicating other specific identified shortfalls including in respect of public open space, recreation facilities or shopping locally which the proposal might address. The extent of the overall benefit that the development would offer to supporting healthy lifestyles and social interaction is therefore unclear and I afford limited weight to this factor.
123. Although there would be a loss of natural habitat to development, the illustrative details show significant areas of new woodland planting, meadowland, hedgerow planting and enhancement of ponds which are suggested to contribute to an overall BNG of almost 65%. This would significantly exceed the mandatory requirement for a 10% BNG. However, the eventual level of gain and provision for habitats would depend on reserved matters and are therefore somewhat uncertain so that I afford moderate weight to this factor. The suggested reduction in existing flood risk would

be a benefit of the proposal, but the current details show only a very slight improvement and I afford this factor limited weight.

124. Provision for electric vehicle charging in accordance with requirements, implementation of sustainable drainage systems and a lack of harm to heritage assets are neutral factors which weigh neither for nor against the proposal.

Planning Balance

125. I have found that the proposal would make appropriate provision for local infrastructure to address demand, and that the site would on balance be a suitable location for the development in respect of future occupiers' access to services, facilities and sustainable transport modes.
126. However, the proposal would be contrary to the overall spatial strategy for growth and the failure to fully satisfy the sequential test means that I am unable to conclude that this would be a suitable location having regard to flood risk. Furthermore, it has not been demonstrated that adverse effects on the integrity of designated European and Ramsar sites can be ruled out, and there would be some further harm to the landscape character and appearance of the countryside around Latchingdon. In these respects, the proposal would be contrary to Policies S1, S2, S8, D1, D5, and N2 of the LDP.
127. Even if the LDP is delivering housing in accordance with its targets, the absence of a five-year supply of deliverable housing sites means that the spatial strategy and its focus on defined settlement boundaries set out in LDP Policies S1, S2 and S8 is failing to meet current housing requirements. A rigid application of the spatial strategy would frustrate attempts to address the deficit in housing supply and while I acknowledge the infrastructure constraints that informed the LDP's strategy for growth, I have found no compelling evidence that appropriate provision for local infrastructure to address demand resulting from the development could not be made. Nor is there any firm evidence that the proposal would otherwise prejudice or delay the delivery of the Garden Suburbs, Strategic Allocations, or planned infrastructure improvements which would be contrary to LDP Policy S2. The Framework highlights the importance of a plan led system, but this context moderates the weight that I afford to the conflict with the development plan arising purely from the location of the site within countryside.
128. The appellant has not argued that the policies noted above would otherwise be inconsistent with the Framework and I have no firm reason to take a different view or reduce the weight that I afford to conflict with them. However, I have found that the harm to the character and appearance of the area in conflict with policies S1, S8 and D1 of the LDP would be limited and localised. Adverse effects of the failure to fully satisfy the flood risk sequential test which results in conflict with Policies S1 and D5 of the LDP would also be limited.
129. That said, the failure to demonstrate that designated European and Ramsar sites would not be adversely affected by the proposal is a matter of considerable concern putting the proposal in conflict with the Habitats Regulations, and the resulting conflict with Policies S1, D1 and N2 of the LDP in this respect weighs significantly against the appeal.
130. Overall, I find given the range and importance of the matters raised that the proposal would conflict with the development plan when it is read as a whole.

131. Although there is conflict with the development plan, the Framework is an important material consideration. The absence of a five year supply of deliverable housing sites means that its paragraph 11 d) is relevant and indicates that permission should be granted unless one of two scenarios apply. The first of these is where the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. The Framework policies relevant to this assessment include those relating to habitats sites and areas at risk of flooding.
132. I have identified that the proposal would fail to fully satisfy the flood risk sequential test, but that only part of the access road within the site would be directly affected by flood risk. Furthermore, the development would be safe for its lifetime taking account of the vulnerability of its users, would not increase flood risk elsewhere and could reduce flood risk overall. However, even if I were to conclude that Framework policies relating to areas at risk of flooding did not provide a strong reason for refusing the development proposed, there would remain conflict with policies in the Framework relating to habitats sites. In my judgement, this conflict provides a strong reason to refuse the development proposed. Accordingly, the presumption in favour of sustainable development at paragraph 11 d) of the Framework does not indicate that permission should be granted in this case.
133. I have carefully considered the benefits of the development noted above. However, the effect of the proposal on designated European and Ramsar sites is a matter of great importance. Even taken together, I find that the benefits of the proposal are insufficient to outweigh effects on designated European and Ramsar sites together with the other identified harm and the resulting conflict with the development plan and Framework. The conflict with the Habitats Regulations is further a matter of overriding concern.
134. I find as a result that the proposal would conflict with the development plan when it is read as a whole, and material considerations including the Framework do not indicate that a decision contrary to the development plan should be reached.

Conclusion

135. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Matthew Driscoll	MJD Planning Ltd
Daniel McAllister	EJ Latchingdon Ltd
Brian Cafferkey	Ardent Consulting

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Fraser	Landmark Chambers
Matt Bailey	Maldon District Council
Mark Bassenger	Councillor, Maldon District Council
Tony Fittock	Councillor, Maldon District Council
Simon Morgan	Councillor, Maldon District Council

INTERESTED PARTIES

David Banner	Local resident
Emma Derham	Local resident
Adrian Fluker	Councillor, Maldon District Council
Emily Morton Smith	Local resident
Jim Pailing	Local resident
Wendy Stamp	Councillor, Essex County Council

DOCUMENTS ACCEPTED DURING AND AFTER THE HEARING

- HD1 Maldon Local Housing Needs Assessment Update 2025, submitted by the Council.
- HD2 Updated Suggested Conditions List, submitted by the Council.
- HD3 CIL Compliance Statement Addendum, submitted by the Council.
- HD4 Email dated 26 March 2025 from Integrated Passenger Transport Unit Lead, subject '24/01004/OUTM Land South of Threeways and The Street Latchingdon', submitted by the Council.
- HD5 Email dated 20 February 2025 from Strategic Development, Essex Highways subject '23/00648/FULM East of Broad Street, Green Road, Heybridge – PT Contribution', submitted by the Council.
- HD6 Email dated 26 November 2025 containing additional suggested condition, submitted by the appellant.
- HD7 Unilateral Undertaking dated 5 December 2025, submitted by the appellant.