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Part 2 - Regulation 19 and 20 Town and Country Planning (Local Planning) (England) Regulations 2012 "Pre-Submission LDP" consultation

Please note that all comments on the Pre-Submission LDP consultation should be provided by completing Part 2 of this form. A separate completed Part 2 should be provided for each comment made within a representation.

2.1. To which part of the Maldon District Pre-Submission Local Development Plan (LDP) does this representation relate?

- | | | |
|---|--|----|
| a. Paragraph
(please specify paragraph number) _____ | b. Policy
(please specify policy reference) _____ | N1 |
| c. Proposals Map
_____ | d. Other section
(please specify) _____ | |

2.2. Do you consider the Maldon District Pre-Submission LDP to be (tick as appropriate):

- a. Legally compliant** Yes ☒
To be 'legally compliant' the LDP has to be prepared in accordance with the Duty to Co-operate and legal and procedural requirements. This is required by Government guidance No ☐
- b. Sound** Yes ☐
To be 'sound' a Local Plan should be positively prepared, justified, effective and consistent with national policy. This is required by Government guidance No ☒
(if you **do not consider the LDP to be sound**, please complete section 2.3. below)

2.3. Do you consider the Maldon District LDP to be unsound because it is not (tick as appropriate):

- a. Positively prepared** ☐
To be positively prepared the plan should be prepared on a strategy which seeks to meet objectively assessed development and infrastructure requirements
- b. Justified** ☒
To be justified the plan must be:
 - Founded on a robust and credible evidence base;
 - The most appropriate strategy when considered against the reasonable alternatives.
- c. Effective** ☐
To be effective the plan must be:
 - Deliverable;
 - Flexible;
 - Able to be monitored.
- d. Consistent with National Policy** ☒
The Plan must be consistent with Government guidance as set out within the National Planning Policy Framework

On the following pages, please explain why you think the Plan is unsound or not legally compliant, and set out any changes you feel should be made to the Plan to make the Plan sound or legally compliant.

Please note: As there will not normally be a subsequent opportunity to make further representations based on your representation at this stage, please include all the information, evidence and supporting information necessary to support/justify your representation and the suggested change(s) to the Plan. After this stage, further submissions will only be invited at the request of the Planning Inspector, based on the matters and issues the Inspector identifies for examination.

2.4. If you consider the Maldon District LDP to be unsound or not legally compliant please explain why in the box below.

Please be as precise as possible. Please also use this space for any comments in support of the LDP.

We do not consider Policy N1 to be sound based on its non-compliance with Paragraphs 73 and 114 of the National Planning Policy Framework (NPPF). Paragraph 73 states that “planning policies should be based on robust and up-to-date assessments of the needs for open space.... The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space... in the local area. Information gained from the assessments should be used to determine what open space... provision is required.” Additionally, Paragraph 114 states that local planning authorities should plan “positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure”. We do not believe that the approaches prescribed in these policies have been applied in the development of Policy N1. We base this on the background evidence that has been undertaken to develop this policy, namely the Maldon District Green Infrastructure Study 2011. Chapter 6 of this document concern ‘Natural and semi-natural green spaces’ that are landscapes and habitats that contribute to wildlife conservation and biodiversity, as part of the ‘multi-functionality’ of green infrastructure. It is stated in Page 70 of this document (under the ‘Quality’ heading) that ‘it is considered that an overall qualitative assessment is both inappropriate and impractical’ and presumably no qualitative assessment has been made for all of the sites identified as natural and semi-natural greenspaces in Figure 5.1, pg. 68 and Figure 7.1 pg. 84 of this document. We note that there is land identified within Goldhanger that is identified as such. However, we refute this sites designation as ‘natural and semi-natural green space’ that contributes to wildlife conservation and biodiversity, and thus its inclusion with the Green Infrastructure provision. This is on the basis that a ‘Protected Species Survey and Report’ prepared by Suffolk FWAG (enclosed) on behalf of our Client for this site confirms that the site is not a habitat for any protected species and not of wildlife or biodiversity value. We therefore conclude that our evidence rebuts the inclusion of this site as Green Infrastructure and, because the Council’s prepared evidence is incorrect and unsound, that Policy N1 is unsound due to it being based on an un-credible evidence base.

2.5. Please explain in the box below what change(s) you consider necessary to make the Maldon District LDP legally compliant and sound.

Please be as precise as possible. Please explain why this change will make the Maldon District LDP legally compliant and sound. It will be helpful if you are able to put forward any suggested revised wording of the policies or supporting text.

Remove the inclusion of the land at Goldhanger as a 'Natural and semi-natural green space' and conduct a proper qualitative and quantitative assessment of all identified sites of Green Infrastructure, as per the policies in the NPPF.

2.6. Do you consider it necessary to attend and give evidence at the hearing part of the examination? (tick as appropriate)

No, I wish to communicate through written representations ☒

Yes, I wish to speak to the Inspector at the hearing sessions ☐

Please note: The Inspector will determine the most appropriate procedure to hear those who have indicated that they wish to participate at the hearing part of the examination

2.7. If you wish to participate at the hearing part of the examination, please outline why you consider this to be necessary.

This is the end of Part 2 (Regulation 19 and 20) of the response form. Please complete this form for each representation you wish to make. You only need to complete Part A once. Please submit all of your response forms together.



PROTECTED SPECIES SURVEY AND REPORT
LAND ADJACENT 15 FISH STREET
GOLDHANGER
MALDON ESSEX
CM9 8AT

FOR:

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PROTECTED SPECIES SURVEY AND REPORT
 LAND ADJ 15 FISH STREET
 GOLDHANGER
 MALDON ESSEX
 CM9 8AT

LOCATION: The land adjacent to 15 Fish Street is located within the village of Goldhanger, northeast of Maldon. Goldhanger is about 650m from Goldhanger Creek, part of the Blackwater Estuary, a SSSI. [TL905090] The map below shows the position of the site in relation to the surrounding area. The survey area is highlighted in red.

DATE OF WALKOVER SURVEY: Tuesday 25th September 2012

SURVEYOR: Diane Ling, BSc (Hons) MSc, CBiol, MIBiol



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SITE PROPOSAL

It is proposed to build five in-fill dwellings on this site; this will include garages and hard standing parking areas. The boundary hedges are to be left intact and improved.

A Protected Species Survey was requested and if necessary, a mitigation and compensatory strategy was to be submitted.

SITE DESCRIPTION:

The area under consideration has been used in the past as a private allotment. The site is situated in a built-up area within Goldhanger village, within a conservation area. Houses with gardens are across the road and on either side of the surveyed plot. There is arable land on the eastern side of the plot. An inlet of Goldhanger Creek lies beyond the arable land and 600 metres to the south of the plot. The village church and pub are approximately 300 metres to the north and a small wood lies 400 metres southwest of the plot on the other side of the row of houses. See map above.

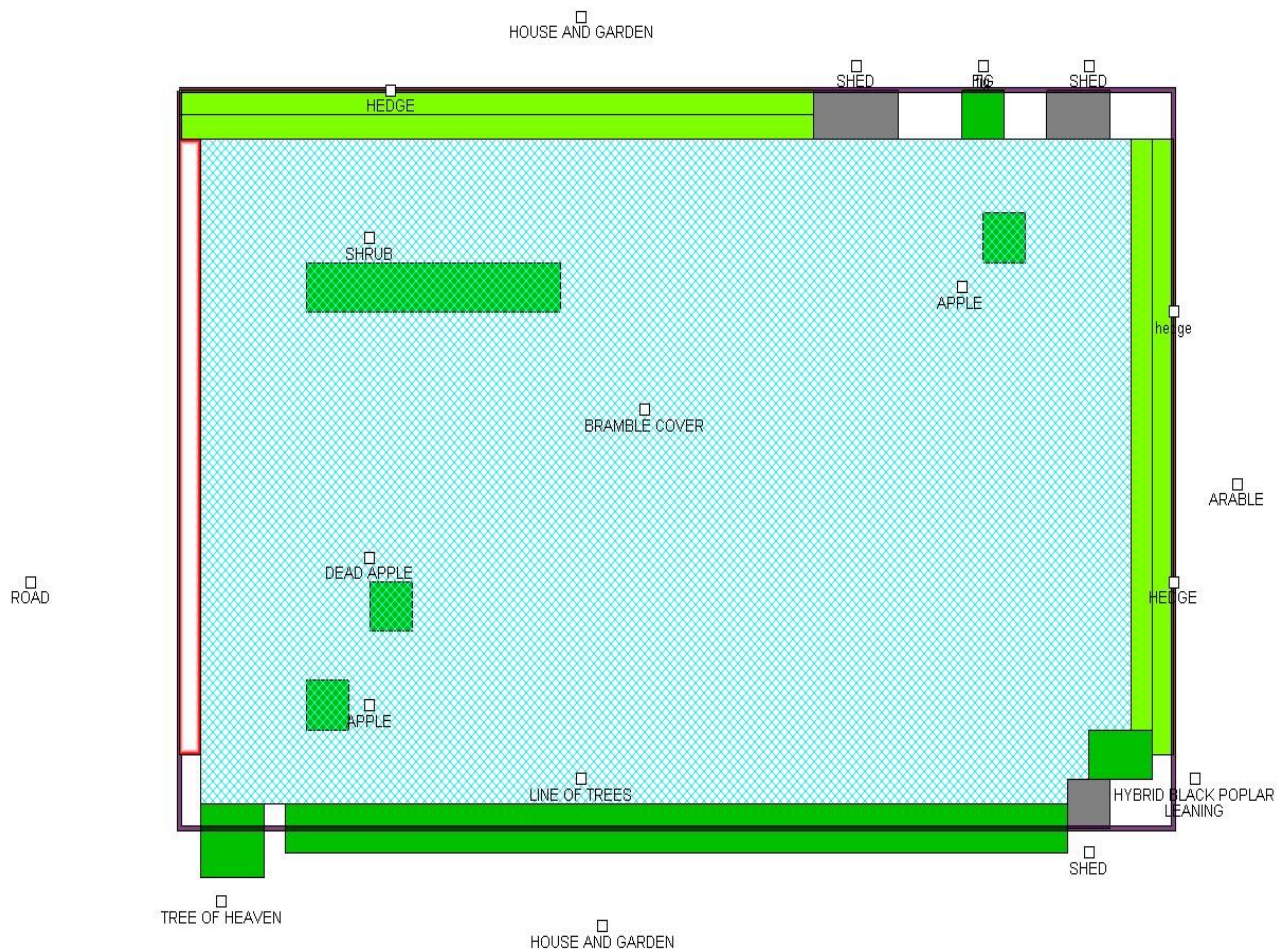
The plot itself is extremely overgrown with bramble; there is no ground flora as a result of this shading. Bramble has grown to more than 6 feet tall over the majority of the plot; where the bramble has overtaken small dead trees it has grown even taller. There is a small brick fence along the Fish Street frontage; the fence is almost entirely covered by bramble. The northern, eastern and western boundaries consist of overgrown hedging and small to medium trees; predominately Hawthorn, Blackthorn, *Prunus*, Goat Willow, Ash, *Leylandii* and Cherry laurel. There are a number of smaller trees, one dead apple tree and two mature apple trees growing within the plot, amongst the bramble. The apples are an early Russet, possibly St Edmunds Russet or a seedling of a St Edmund Russet. Two wooden sheds were found near the North-eastern corner and a corrugated shelter near the South-eastern corner. The corrugated shed contained several small asbestos sheets and all sheds hold various garden detritus and rubbish. There is a small amount of Honeysuckle, Hops, Wild Rose, Ivy, Great Willowherb and Nettle scattered around the surveyed plot. A semi-mature oak in the North-eastern corner and a large Fig tree near the two sheds appear to be just outside the plot boundary. There is a small grassy area near the Oak. A large Hybrid Black Poplar is leaning badly in the South-eastern corner. Also in this corner was a small dry pond; the neighbour's waste water was draining into a ditch near the pond. A large Tree of Heaven in the garden next door [South-western corner] is overhanging the plot. This tree can be invasive and several young suckers were seen closeby. A tree specialist examined all the trees within the plot: See accompanying report.

In addition to the birds listed below, other species seen during the survey were: A white-tailed bumblebee seen flying above a nest near the Tree of Heaven: Four Small White Butterflies; One Large White Butterfly; a Bush-cricket and several Hoverflies.

The site map below, not strictly to scale, is for illustrative purposes only and shows the approximate position of the features mentioned above.

The photos below the map show some of the features mentioned above and also illustrate the over-grown nature of the plot.

Below: Site map drawing showing: The brick wall next to the road on the western side; the overgrown hedge on the northern and eastern boundaries; and a line of trees on the southern boundary. Also seen are the positions of two live apple trees; a dead apple tree; Tree of Heaven; Hybrid Black Poplar, which is leaning badly; area of scrub, the three sheds and the Fig tree. Brambles cover the entire site.



The pictures below show many of the features mentioned above:

Photo below: A view from the centre of the plot looking west toward the houses across the road.



Photo below: Looking South-east from the eastern boundary. An Arable field is in the foreground, with the estuary in the distance.





Photo above: Path cut through bramble by surveyors.

Photo below: Path cut through from front gate, overgrown hedge on right.



Photo below: The centre of the plot looking east.



Photo above: One of the old sheds, Fig Tree on right

PROTECTED SPECIES SURVEY AND MITIGATION

BATS

EXISTING BAT RECORDS AND LEGISLATION

Existing Bat records from the Essex Mammal Group reveals that a Pipistrelle roost has been recorded in Goldhanger church. Pipistrelle bats have been recorded foraging near the church in 2010 and 2011.

In England bats and their roosts are protected by the law. In summary, it is illegal to kill, injure, or disturb bats, or to damage, disturb or obstruct access to bat roosts because of the following legislation:

□ **Wildlife & Countryside Act 1981 [as amended]** provides protection for all bats and their roost and requires consultation with English Nature before carrying out activities that might harm or disturb bats and/or their roosts.

□ **Countryside & Rights of Way (CROW) Act 2000** adds the word “reckless” to the offence of disturbing a bat or damaging/destroying a place a bat uses for shelter (i.e. a bat roost). This is important legislation because it protects bats and roosts from reckless and/or intentional disturbance/damage.

□ **The Conservation of Habitats and Species Regulations 2010**. Under this legislation it is an offence to damage or destroy a breeding site or resting place of any bat, or to deliberately capture, kill or disturb a bat. Most development and maintenance works affecting bats and/or roosts e.g. bridge/tree maintenance works, demolition, barn conversions, works to churches etc, therefore require a Habitats Regulations Licence for work to take place legally. So, in England, before works affecting bats or roosts are undertaken, a Habitats Regulations Licence must be applied for and obtained from Natural England.

When considering development, competent authorities throughout the UK must have regard to the safeguarding of European Protected Species. Regulation 3(4) of the Habitats Regulations 1994 [also 3(4) in the Habitats Regulations (Northern Ireland) 1995] states: *“Without prejudice to the preceding provisions, every competent authority in the exercise of their functions, shall have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.”*

This means that planning authorities must apply three tests when determining planning applications where European Protected Species may be involved. These tests mean they must have “due regard” to:

The purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment – Regulation 44(2)(e) in the Habitats Regulations 1994 [39(2)(e).

As long as:

- There is no satisfactory alternative Regulation 44(3)(a) [39(3)(a)]; and

- The action authorised will not be detrimental to the maintenance of the species concerned at a Favourable Conservation Status in their natural range Regulation 44(3)(b) [39(3)(b)]

BAT ACTIVITY AND MITIGATION

The sheds and plot was surveyed for likely bat roosting sites and foraging areas. The boundary hedges may provide both foraging and a navigational route between the gardens on this road. The old garden sheds were not optimal roosting sites, as they had corrugated roofs. No sign of bats were seen in any of the sheds.

The trees within the garden would not provide optimum roosting habitat, as they were quite young and smooth-barked.

However, all work on the site should take into consideration that bats may be present.

The timing of works on the trees within the plot is very important and must take place from late August through to late October, depending on the weather conditions. This is the time of year when bats are not torpid and are able to fly out of the way. This will also avoid the breeding season of bats and birds.

All work must be undertaken with great care and due consideration for any bats that may be present. If bats are discovered by contractors, work must cease immediately and no attempts should be made to handle them. The contractors must contact Natural England so that appropriate action is taken.

To avoid disturbing foraging bats, light pollution must be kept at a minimum. Use temporary outdoor lighting carefully during the building works. Place outdoor lighting in a position so that light does not fall onto the surrounding trees, hedgerow or in adjoining gardens. All lighting should be pointing downwards. Place all permanent outdoor lights around the new dwellings sympathetically, with the needs of foraging bats in mind.

To provide bat roosting on this site, consider incorporating provisions for roosting bats in the new-built homes. For information on roost creation, consult The Bat Conservation Trust's website, www.bats.org.uk

BADGERS

□ The Protection of Badgers Act 1992 (c. 51)

This Act protects the badgers and their setts and consolidates the:

- Badgers Act 1973,
- the Badgers Act 1991 and
- Badgers (Further Protection) Act 1991

The 1992 Act repeals previous Badgers Acts of 1973 and 1991, and certain sections of other relevant acts such as The Wildlife and Countryside Act 1981, The Environmental Protection Act 1990, The Animals (Scientific Procedures) Act 1986, The Natural Heritage (Scotland) Act 1991, and The Criminal Justice Act 1991.

It is an offence to:

- Wilfully kill, injure or take, or attempt to kill, injure or take, a badger.
- Cruelly ill-treat a badger, dig for badgers, use badger tongs, use a firearm other than the type specified under the exceptions within the Act.
- Interfere with a badger sett by damaging, destroying, obstructing, causing dog a dog to enter a sett, disturbing an occupied sett - either by intent or by negligence.
- Sell or offer for sale a live badger, having possession or control of a live badger.
- Mark a badger or attach any ring, tag, or other marking device to a badger.

SURVEY RESULTS

The surveyed plot and the arable fields on the eastern side of the plot were inspected by Diane Ling for signs of badger. The surveyor was not able to access adjacent gardens directly, but surveyed from a few metres away. There was no sign of any badger activity or badger setts within 50 metres of the proposed site.

AMPHIBIAN AND REPTILE SPECIES

□ **Wildlife & Countryside Act 1981 [as amended]**. All of the native species (and all species of marine turtle) receive some degree of protection through the Wildlife and Countryside Act 1981 (as amended). There have been two alterations to the Schedules to this Act which have increased the level of protection since it was originally passed (these occurred in 1988 and 1991). There are three different levels of protection afforded to our amphibians and reptiles through the Wildlife and Countryside Act 1981; resulting from different parts of Section 9 of the Act applying to the different species (as specified in Schedule 5). The first level of protection is 'Full protection' [ie Great Crested Newt and Natterjack Toad].

Grass snakes, the Adder, Common Lizard, and Slow worm are partially protected under the second level of protection: 'Protection against killing, injuring and sale' amendment. Only part of sub-section 9(1) and all of sub-section 9(5) apply; these prohibit the intentional killing and injuring and trade (i.e. sale, barter, exchange, transporting for sale and advertising to sell or to buy). It is not an offence under the Wildlife and Countryside Act 1981 to possess these animals.

The sand lizard is also identified as a Priority Species in the UK Biodiversity Action Plan. The four widespread species of amphibian, the smooth and palmate newts, the common frog and common toad, are protected only by Section 9(5) of the Wildlife and Countryside Act 1981. [The third level of protection]. This section prohibits sale, barter, exchange, transporting

for sale and advertising to sell or to buy. Collection and keeping of these widespread amphibian species is not an offence.

SURVEY RESULTS AND MITIGATION

The area surrounding the proposed building site was inspected by Diane Ling; none of these species were seen during the survey.

It is thought that the present habitat did not support these species. The thick cover of bramble shaded the ground preventing vegetation from growing and there were no open basking areas. There were no rubble piles or other refuge which could have provided shelter.

When the area has been cleared of bramble and scrub, construct an amphibian exclusion fence on the inside of the northern, eastern and southern boundaries to prevent these species entering the open plot from surrounding gardens during works. The amphibian fence can be removed after works have been completed.

GREAT CRESTED NEWTS

The Great Crested Newt is protected under European law through Annexes 2 and 4 of the **EU Habitats and Species Directive, the Bern Convention and the Conservation of Habitats and Species Regulations 2010**; and in the UK through Schedule 2 of **the Wildlife and Countryside Act 1981** (as amended). Together these make it an offence to:

Intentionally kill, injure or take a Great Crested Newt.

Possess or control any live or dead specimen or anything derived from a Great Crested Newt.

Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for breeding, shelter or protection by a Great Crested Newt.

Intentionally or recklessly disturb a Great Crested Newt while it is occupying a structure or place which it uses for that purpose.

Intentionally take or destroy the eggs of a Great Crested Newt.

Sell, barter, exchange, transport or offer for sale Great Crested Newts or parts of them.

Great Crested Newts are protected in the UK as this country represents their stronghold within Europe.

When considering planning applications, the authorities are required by law to take account of protected species and the conservation of habitats. A detailed ecological survey is usually required before planning permission can be granted.

Countryside & Rights of Way (CROW) Act 2000 adds to the 1981 act. It is prohibited under the CROW act to deliberate kill or keep GCN, the taking/destruction of eggs. It is prohibited to disturb GCN. This act also adds the word "reckless" to the offence of disturbing a GCN or damaging/destroying any place used by GCN as a breeding site/resting place. This is important legislation because it protects GCN and their habitats from reckless and/or intentional disturbance/damage.

The legislation covers all life stages; eggs, tadpoles and adult newts are all equally covered.

SURVEY RESULTS AND MITIGATION

Data provided by Essex Ecology Services Ltd show that Great Crested Newt have been found at Hall Farm, Goldhanger; the most recent recording was in 2005. This farm is approximately one kilometre north of the surveyed plot on the outskirts of the village.

The area surrounding the proposed building site was surveyed by Diane Ling, a Natural England 'conservation' licence holder [License number 20122909].

There were no ponds within the surrounding environment and no sign of Great Crested Newts.

As stated in the section above, the habitat in the surveyed plot did not provide ideal Newt habitat.

If the suggested mitigation for reptile and amphibians is adopted [see previous section], it is thought that any works on this plot will not disturb Great Crested Newts.

WATER VOLES

Water voles are protected under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000).

Since **6th April 2008**, water vole are listed on Schedule 5 in relation to all of Section 9. It is now an offence to:

- intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection;
- intentionally or recklessly disturb water voles whilst occupying a structure or place used for that purpose;
- intentionally kill, injure or take water voles;
- possess or control live or dead water voles or derivatives;
- sell water voles or offer or expose for sale or transport for sale;
- publish or cause to be published any advertisement which conveys the buying or selling of water voles.

Water voles are **not** listed on the European Habitats Directive 1992, and so are **not** protected by the Conservation (Natural Habitats, &c.) Regulations 1994 (the 'Habitat Regulations').

Natural England is the licensing authority for the Wildlife and Countryside Act. Licences may be issued for the following:

- scientific or educational purposes;
- ringing or marking;
- conserving wild animals or introducing them into particular places;
- preserving public health or public safety;
- preventing the spread of disease;

There is **no** provision under the Wildlife & Countryside Act 1981 for licensing what would otherwise be offences (e.g. the intentional destruction of water vole burrows) for the purposes of development, maintenance work or land management.

- Such activities must be covered by the defence in the Act that they are **the incidental result of a lawful operation and could not reasonably have been avoided**.

- **Reasonable** steps must be taken to avoid any unnecessary damage (note that only a court can decide what is reasonable)
- preventing serious damage to any form of property or to fisheries.

Natural England considers that the following actions **do not** require a licence as no offence is being committed:

- walking river banks or wading along watercourses to look for field signs;
- stopping to examine potential burrows;
- observing a known burrow from a distance or concealment.

No licence is required for survey work where presence/absence is being determined (e.g. ecological survey of a proposed development site), or re-survey of known breeding site so long as examination is brief and external only.

Natural England considers that the following actions **do** require a licence as an offence is being committed:

- detailed and prolonged examination of a known burrow, which would disturb any water voles present;
- all work involving the catching or handling of water voles.

A licence **is** required for catching/handling, or field surveys that are intrusive or prolonged at a burrow when the surveyor suspects water voles are in occupation.

Water voles and planning:

- Using guidance from the National Planning Policy Framework [2012], the Government expects the planning system to help meet its objectives to conserve enhance and restore the diversity of England's wildlife and the populations of its naturally occurring species.
- As a protected species the water vole is a material consideration.
- Local Planning authorities and all public authorities have a duty to conserve biodiversity under the Natural Environment and Rural Communities Act 2006.
- An ecological appraisal is recommended for all cases where protected species may be present (may be part of an Environmental Impact Assessment)
- Identify opportunities for habitat enhancement or restoration to benefit water voles.

Data provided by Essex Ecology Services Ltd show that Water voles had been found at Wimbourn Creek, Totham Brook, Blackwater and in a roadside ditch west of Cobb's Farm. The most recent siting was in 2002. All these sites are over one kilometre from the surveyed plot.

The Proposed Building Site was surveyed by Diane Ling and no sign of water vole was seen near or within the plot. The ditch along the eastern boundary was dry and looked like it had been for some time. The habitat was not ideal and there was no other connectivity that would encourage water voles to establish in the area.

It is thought any works carried out was unlikely to disturb water vole or their burrows.

BREEDING BIRDS

□ Wildlife & Countryside Act 1981 [as amended]

The definition of a 'wild bird' in Section 27 of the Wildlife and Countryside Act 1981 changed in 2004. A new Statutory Instrument (SI 2004 No. 1487) which came into force on 14 July 2004 means that a 'wild bird' as defined by the Act is now any species which is ordinarily resident in or is a visitor to 'the European Territory of any Member State' (of the EU). Previously, 'wild bird' only referred to birds which occurred in Great Britain. This brings the WCA in line with the EC Birds Directive and makes it illegal to be in possession in the UK of any eggs or birds of any species taken from the wild in another Member State. .

- All birds, their nests and eggs are protected by law and it is thus an offence, with certain exceptions (see below) intentionally to: Kill, injure or take any wild bird.
- Take, damage or destroy the nest of any wild bird while it is in use or being built.
- Take or destroy the egg of any wild bird.
- Have in one's possession or control any wild bird (dead or alive) or any part of a wild bird which has been taken in contravention of the Act or the Protection of Birds Act 1954.
- Have in one's possession or control any egg or part of an egg which has been taken in contravention to the Act. This includes items taken or killed before the passing of the Act.
- Have in one's possession or control any live bird of prey of any species in the world (with the exception of vultures and condors) unless it is registered and ringed in.
- Have in one's possession or control any bird of a species occurring on Schedule 4 of the Act unless registered (and in some cases ringed) in accordance with the Secretary of State's regulations.
- Disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

SURVEY RESULTS AND MITIGATION

The proposed building site was surveyed by Diane Ling for the presence of breeding birds. A small amount of bird activity was seen within the plot. Birds seen during the survey were: One Robin and three Collared Doves. A Green Woodpecker and a Great Tit were heard in the distance. An old Dove or Woodpigeon nest was seen in one of the apple trees.

The trees, overgrown hedge and ivy growing within the two wooden sheds could provide nesting habitat.

Careful timing of all works is important to avoid disturbing breeding and nesting birds and their offspring.

All tree and scrub removal must be completed outside the bird breeding season. Work can begin in early autumn and must be completed before late February/early March.

Once the area has been cleared, great care should still be taken during further works to avoid disturbance to the surrounding trees and scrub.

The remaining habitat should be enhanced to increase its value to breeding birds. See the 'Site Habitat Improvement' section.

BARN OWLS

□ Wildlife & Countryside Act 1981 [as amended]

Barn Owls and their nest sites are protected by law. The Barn Owl is specially protected under Schedules 1 and 9 of the Wildlife and Countryside Act 1981. It is illegal to kill, injure or take a wild Barn Owl or to take or destroy its eggs. It is also illegal to check nest sites or even to disturb a Barn Owl while it is at or near a breeding site - unless you hold a special licence. (Usually March to October is considered the breeding season, but they might breed at almost any time of year!)

Any study or disturbance of Barn Owl nesting sites requires a "Schedule 1 Licence" which can only be obtained through official government bodies or agencies - usually Natural England, Countryside Council for Wales, Scottish Natural Heritage or Northern Ireland Environment Agency. The Schedule 1 scheme monitors where the observers are operating, and tries to ensure that no site is visited by more than one group of observers. Leg-ringing of birds is also controlled by legislation, and so bird ringers have to be officially qualified for this.

SURVEY RESULTS AND MITIGATION

The area surrounding the plot was observed by Diane Ling during the survey. There were no signs of Barn owls or Barn owl nests during the survey. The habitat is not suitable for Barn Owl nesting or hunting.

It is thought that any the proposed works will not affect Barn Owls.

DORMOUSE

The dormouse and its habitat are protected under The Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010. They are also protected against cruelty under The Protection of Mammals Act 1996 and are a priority species under the UK Biodiversity Action Plan. The deliberate capturing, disturbing, injuring and killing of dormice is prohibited, as is damaging or destroying their breeding sites and resting places. It is also an offence to Possess or transport a dormouse or any parts thereof unless licensed and sell or exchange a dormouse or any parts thereof.

If an activity is likely to result in an offence (such as disturbing dormice), there are several options to proceed lawfully:

- Avoid carrying it out.
- Follow good practice guidance on methods or timing to reduce the chance of committing an offence.
- Obtain a licence to allow otherwise unlawful activities

- A licence application would need to demonstrate that (1) the authorised activities are for a specified purpose (most commonly over-riding public interest or conservation), (2) there is no satisfactory alternative, and (3) the activities would not compromise the conservation status of the Dormouse.
- .Some activities would require habitat creation to offset damage or destruction.
- Leave any stump removal or earth removal until the following summer.

SURVEY RESULTS AND MITIGATION

There are no records of Dormice in the 2 kilometres surrounding the surveyed plot. Although the habitat within the surveyed plot is suitable for Dormice foraging, there are no Dormice populations nearby or connectivity to any other suitable Dormice habitat. It is thought that any works on this site would not affect Dormice.

SITE HABITAT IMPROVEMENT

The habitat surrounding the proposed new dwellings can be improved by providing a varied environment after building work has finished.

The boundaries on the northern, eastern and southern sides of the plot could provide good habitat for breeding birds, reptiles, amphibians, invertebrates and a navigational corridor for foraging bats.

Coppice all overgrown scrub and trees within the boundaries. Fill up the resulting gaps with native Hawthorn, Spindle, Guelder Rose, Dog Rose and Dogwood.

The southern boundary is quite shaded and would benefit from selected felling of the small trees here to let in some light and allow some hedging plants to be slotted into the gaps.

Consider felling the Leylandii.

If possible, replace the leaning hybrid Black Poplar with a native Black Poplar.

Plant smaller tree varieties within the northern and southern boundaries to avoid shading the adjoining gardens.

To replace the Russet apples within the plot, plant large fruit trees in the back hedge. Use 6 foot bare-root single leader trees, ensure they are planted in gaps of at least 2m and dig the ground so that there is no competition in the first year. [Information from Paul Read, traditional orchard specialist]

Local traditional apple varieties to consider are: Maldon Wonder, Chelmsford Wonder, Stanway Seedling, Monarch, D'Arcy Spice and Sturmer.

Local Plums to consider: Monarch, Pershore, Marjories Seedling and Rivers Early. Smaller plum trees can be considered for the northern and southern boundaries.

There are no local Pear varieties, but if desired Conference and Beurre Hardy may be planted but be aware that these will grow into very large trees.

Where possible plant a native grass and flower mixture in any open areas within the site and especially next to the boundary hedges.

Grass and wildflower mix:

- 20% Timothy
- 15% Crested dogtail
- 10% Meadow foxtail
- 15% Smooth Meadow-grass
- 5% Rough Meadow-grass
- 15% Sheeps Fescue
- 10% Red Fescue
- 10% Meadow Fescue

Add to this:

- Yarrow
- Knapweed
- Mayweeds
- St John's Wort
- Ox Eye daisy
- Common vetch
- Bird's foot trefoil.

Broadcast onto well prepared soil. Grass will need timely management to encourage and sustain establishment.

CONCLUSION

As a result of the site survey and desktop study, it is thought unlikely that any works on the proposed development will impact on the protected species listed in this report.

Recommended mitigation for bats, amphibian and reptiles have been detailed in this report to prevent any works from affecting these species that may be present outside the proposed development site boundaries.

After the completion of all works, the habitat within the boundary hedgerows can be improved to provide a more varied environment. This area could support several species of invertebrates; provide food and shelter for breeding birds, reptiles and amphibians and a navigational aide for bats. These measures, which include planting local traditional fruit trees, have been outlined in this report.

