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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) _____ | H1 |
| 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.

Policy H1 sets out that land North of Holloway Road, Heybridge will be required to provide 40% on- site affordable housing. Strong objection is raised to this on the grounds that it is not justified, effective or consistent with national policy. The owner of the land has instructed a Viability Appraisal for the site, which will be submitted to the Council as evidence ahead of the Examination in Public.

Paragraph 173 of the NPPF relates to ensuring viability and deliverability. This sets out that Plans should be deliverable and therefore the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. The proposed 40% affordable housing and infrastructure requirements for Policy S2(e) do not accord with paragraph 173 of the NPPF and for this reason the plan is not sound. This is explained in further detail below.

The proposed 40% affordable housing has been informed by the evidence base documents of the Infrastructure Delivery Plan , the Local Plan and Community Infrastructure Levy Viability Study, and Local Plan and Community Infrastructure Levy Viability Study Post Consultation Update (November 2013). For Heybridge North under Scenario 2 (which is 1,235 units as per the current growth area), the pooled Section 106 contributions on Dalby land work out as £2,576,438 based on 100 units. To also account for likely sewage connection charge the cost works out to be £26,556 per unit based on 100 units. £26,556 per dwelling represents a very high cost per dwelling Section106 contribution, although it is recognised that this is required in order to deliver the important infrastructure requirements associated with Heybridge North (including the new link road, flood alleviation and primary school). No objection is raised with regard to the proposed Section106 costs, provided that a proportionate approach is taken to affordable housing and Code Level/Energy requirements, which has not been taken.

The justification for the residual value for site s(e) as set out within the Community Infrastructure Levy and Community Infrastructure Levy Viability Post Consultation Update has been based on a number of assumptions, many of which are flawed and not justified in planning terms. Areas where the viability appraisal is flawed is set out below:

Site Area and Density

The Viability Appraisal references Dalby land covering an area of 3.8 hectares, with a likely density of 40 dwellings per hectare. This is not correct in that the site area is actually just over 3.5 hectares. The study does also not take into account that a small part of the site is within a flood zone 2 and 3. This includes an area to the south- east corner of the site and a 9 metre easement along the south site frontage with Holloway Road. The total flood zone equates to an area of approximately 0.5 hectares and is not likely to be developable.

Based on the presumption that the proposals are going to be garden suburbs, it is considered unlikely that a density of 40 dwellings per hectare will be achieved or is realistic having regard to land to the north of Holloway Road. In this regard there is a lack of consistency between the relatively low density garden suburb approach set out in Maldon's Local Plan and the high density 40 dwellings per hectare set out in the viability report.

At the workshop held on the 7th March, feedback was that our site is more suited to a higher

density (up to 35 dwellings per hectare), being adjacent to the development boundary of Heybridge. The exact number of dwellings to be delivered on land to the north of Holloway Road will be determined at detailed application stage, however based on work undertaken to date we consider the site has a capacity of 95 dwellings and not 100 as set out within Maldon's report, which has an impact in terms of viability. The Viability Report needs to be re-calculated to account for this. The reason for the change in suggested number of dwellings on Dalby land, from previous representations is based on additional information on the corner of the site being within a flood zone 2/3 and the lower density garden suburb approach adopted by Maldon. Attached to this representation is a plan of the Flood Extents and Indicative Surface Water Drainage Strategy, prepared by Ardent Consulting Engineers.

Notwithstanding the above, there are a number of other areas where the report is flawed. The viability assessment has not taken into account the abnormal costs associated with the delivery of development on land to the north of Holloway Road, Heybridge (S2e). For example the viability report does not account for site specific ground conditions or level changes. This level change within the site north to south is likely to add some additional costs in terms of building out the development.

In addition it is not clear whether the Viability Study Update has accounted for the policy requirements within Policy D2. Policy D2 sets out that 'subject to viability, all residential development should achieve a minimum Code for Sustainable Homes Level 4.'

Within the Viability Study Report Update (November 2013) reference is made to the old D2 Policy, which required cfsh level 3 instead of cfsh level 4. It is not clear whether cfsh 3 or cfsh 4 has been used within the Viability Study and this needs to be clarified by the Council in order to demonstrate that the plan is based on a credible evidence base.

Based on the current level of affordable housing, Maldon District Council is seeking to place unjustified Viability burden on land to the north of Holloway Road, Heybridge. This does not accord with paragraph 173 of the NPPF and is therefore not sound in planning terms being not in accordance with national policy.

Affordable Housing in Wider Terms

In wider terms, whilst 40% is a specific requirement for growth area site S(e), there is also a requirement for most other residential developments to achieve 40% affordable housing. Land to the North of Holloway Road, Heybridge is subject to considerably higher Section106 burdens than that of other developments in the District and therefore affordable housing contributions should be lower. That said, it is considered that the proposed percentage of 40% affordable housing for many areas of the District is not seeking to positively plan for growth and it will delay the supply of housing being delivered, in that it will place unsuitable viability costs on development. This policy is therefore not considered to be in accordance with paragraphs 47 or 173 of the NPPF.

In higher level terms when considering the matter of viability it is appropriate for Maldon District Council to liaise with adjoining District and Borough Council's regarding affordable housing delivery. As part of the background evidence base documents reference is made to work undertaken with neighbouring authorities as part of the Heart of Essex Growth Scenarios. The Heart of Essex included work with Chelmsford and Brentwood Borough Council. Chelmsford has an adopted policy of 35% affordable housing and Brentwood has set out a proposal for 35% affordable housing as part of their emerging Local Plan. House and land values are generally higher in both Chelmsford and Brentwood than Maldon District and therefore it is very surprising that a higher percentage of affordable housing is being sought in Maldon. This is especially case

given that affordable housing needs are also high in the neighbouring authorities of Brentwood and Chelmsford. In addition Maldon should recognise that there have been a number of applications in Chelmsford that have not achieved 35% level of affordable housing due to viability reasons.

With values of land and houses being higher in Brentwood and Chelmsford, a more suitable comparison with Maldon would be Braintree District where land values are more similar. Within Braintree District, the Council has an adopted policy that requires 30% affordable housing. This provides a realistic level of affordable housing, which allows development to be delivered viably and positively plans for growth as required by the NPPF. To use another example, within Castle Point Borough, where there is a chronic shortage of affordable housing, their emerging Local Plan sets out a requirement for 25% affordable housing, which is realistic given viability constraints.

The negative effect of setting affordable housing targets too high has been well documented by North Norfolk District Council, where they have a policy requirement of 45% affordable housing. Since this policy was adopted in 2008, between the years of 2009 and 2013 it was reported that only 6 affordable units were built in the District and this formed part of a rural exception site rather than a market housing site. Following this North Norfolk have now sought to relax their affordable housing requirements to 20% across parts of the District to support growth.

The proposed 40% affordable housing within Maldon District Council could result in further stagnation of development across the District, in a District which already has a significant housing land supply shortfall. Policy H1 is not in accordance with National Policy and is not positively prepared or effective as required in order to be sound. As a general policy requirement it is considered that a maximum of 30% across the District for affordable housing target would be a more realistic target and would help facilitate the delivery in growth. In relation to Land to the North of Holloway Road, Heybridge it is considered that a provision of a maximum of 25% would be suitable to account for the high Infrastructure and Section106 costs associated with the delivery of the development. This will be informed further by our viability appraisal, which will be submitted to the Council ahead of the Examination in Public.

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.

It is recommended that policy H1 is amended, suggested changes are highlighted in bold below:

The affordable housing requirements for each sub- area in the District are as follows:

North Heybridge Garden Suburb:

- **North of Holloway Road – S2 (e) up to 25%, subject to Viability**

Specific reference is not made to the viability of other developments and this representation is specific to land under the control of Mr P.Dalby. However, it is considered that Maldon need to re-assess Viability across the District.

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.

It is important to speak at the Examination in Public to clearly put forward our case in relation to ensuring a viable level of affordable housing is allocated on land to the north of Holloway Road, Heybridge and to provide clarification on the Viability Study we will be commissioning before the EiP. This is required in order to ensure that the plan is both deliverable and sound as required by the NPPF.

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.

NOTES:

1. DO NOT SCALE FROM THIS DRAWING.
2. THE PROPOSED LAYOUT IS INDICATIVE AND FOR COMMENT ONLY.
3. THE SURFACE WATER DRAINAGE SHOWN IS INDICATIVE AND FOR COMMENT ONLY.
4. THIS DRAWING HAS BEEN BASED UPON TOPOGRAPHIC SURVEY DATA OBTAINED BY RANDALL SURVEYS IN OCTOBER 2011.
5. PRELIMINARY FLUVIAL FLOOD EXTENTS SHOWN, AS A RESULT OF THE 100 YEAR AND 1000 YEAR FLOWS IN THE ON-SITE AND WOOD LANE DITCHES.
6. LOCATION OF FOUL WATER SEWER HAS BEEN DERIVED FROM ASSET PLANS PROVIDED BY ANGLIAN WATER AND COORDINATED WITH TOPOGRAPHIC SURVEY DATA.
7. UNDER THE TERMS OF THE WATER RESOURCES ACT 1991, THE PRIOR WRITTEN CONSENT OF THE ENVIRONMENT AGENCY IS REQUIRED FOR ANY PROPOSED WORKS OR STRUCTURES, IN, UNDER, OVER OR WITHIN 9 METRES OF THE TOP OF THE BANK OF THE HOLLOWAY ROAD DITCH, DESIGNATED A 'MAIN RIVER'.

KEY

- SITE BOUNDARY
- EXISTING WATERCOURSE (MAIN RIVER)
- ANGLIAN WATER FOUL WATER DRAINAGE
- EXISTING DITCH (ORDINARY WATERCOURSE)
- DIVERTED DITCH (ORDINARY WATERCOURSE)
- PROPOSED SURFACE WATER DRAINAGE
- PROPOSED SWALE
- PROPOSED CULVERT
- PROPOSED CUT OFF / INFILTRATION DITCH
- PROPOSED POROUS PAVING
- EA CONSENT REQUIRED FOR ANY WORKS OR STRUCTURES WITHIN 9.0m OF A MAIN RIVER
- 1 IN 100 YEAR FLOOD EXTENTS
- 1 IN 1000 YEAR FLOOD EXTENTS

DRAFT -
FOR COMMENT

B	INDICATIVE POND RELOCATED TO FLOOD EXTENTS	FB	BC	BC	16.8.13
A	PROPOSED CUT OFF / INFILTRATION DITCH ADDED	NG	BC	BC	13.8.13
REV	AMENDMENTS	DRN	CHK	APP	DATE

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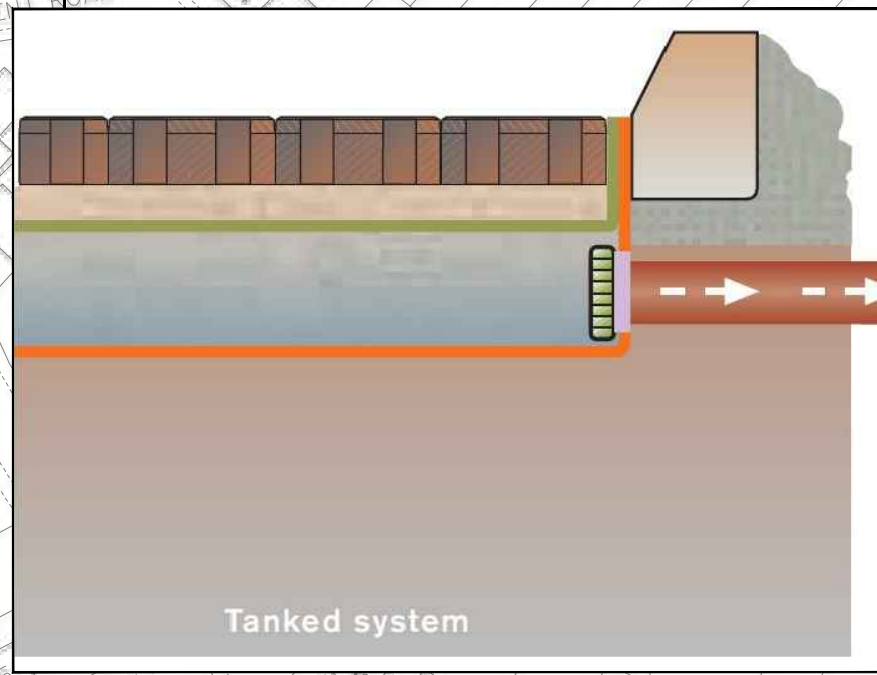
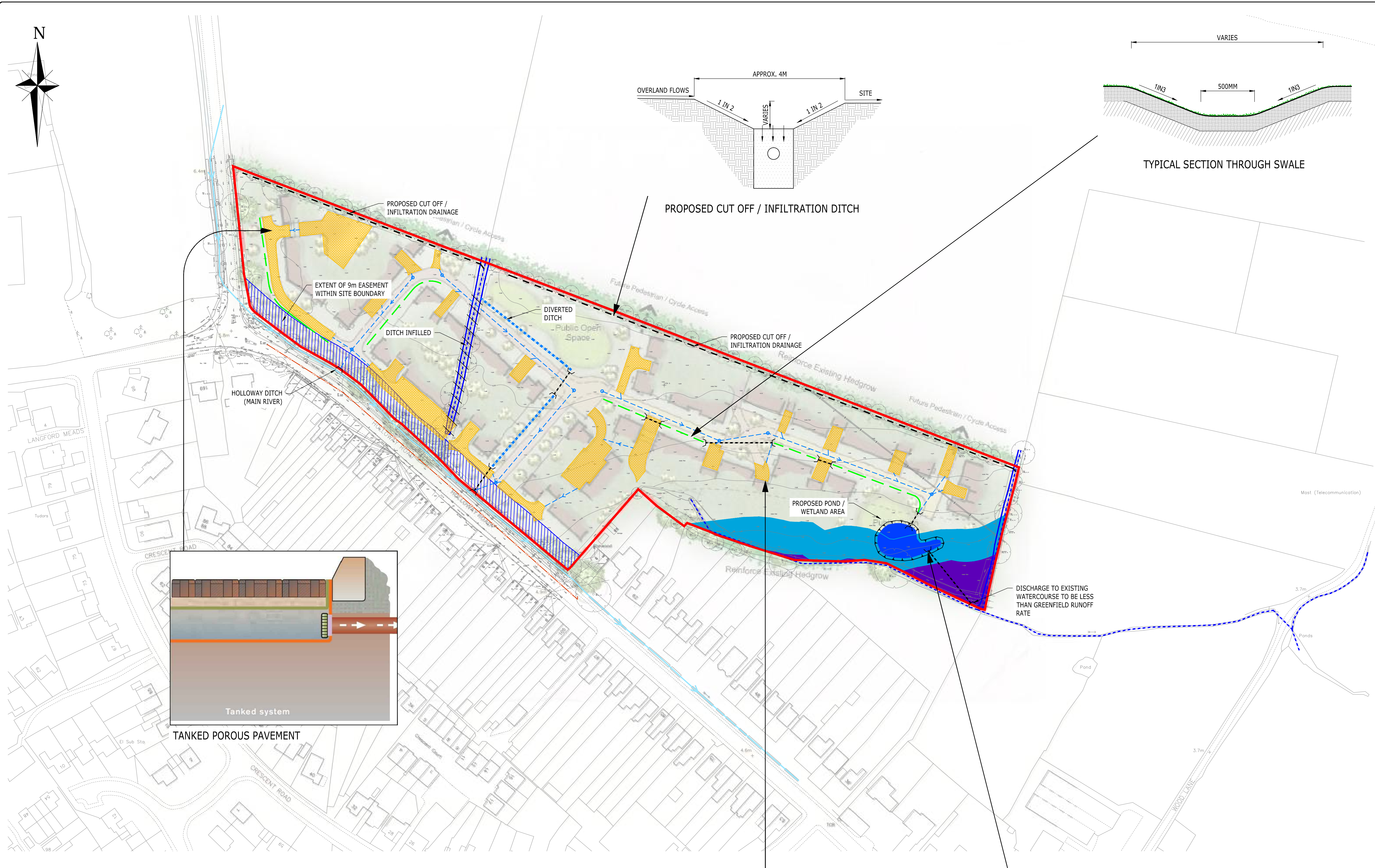


CLIENT: STRUTT AND PARKER

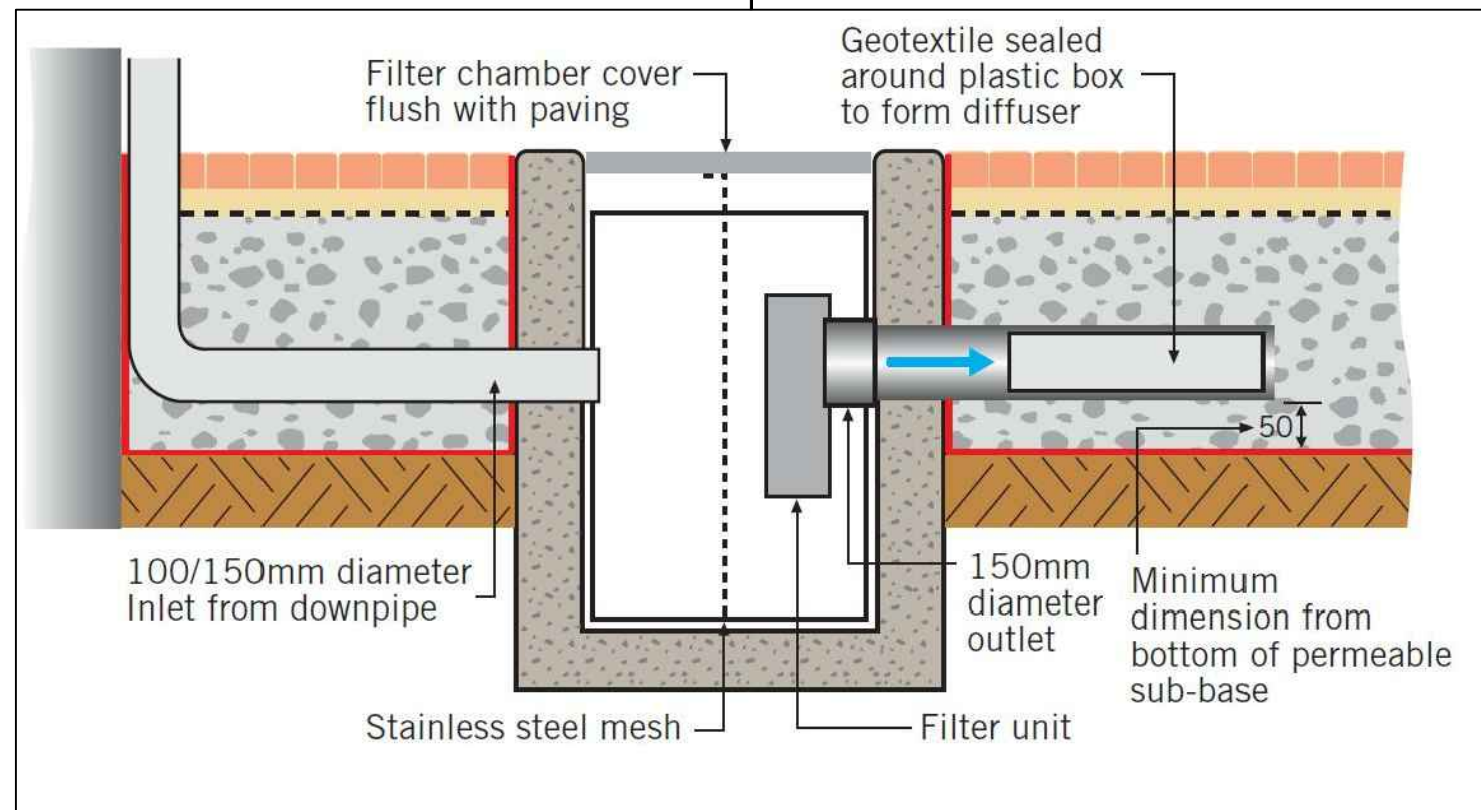
PROJECT TITLE: HOLLOWAY ROAD
HEYBRIDGE

DRAWING TITLE: FLOOD EXTENTS & INDICATIVE
SURFACE WATER DRAINAGE STRATEGY

SCALE: 1:1000 @ A1	DATE: 09.08.13	DESIGNED: FB
DRAWN: FB	CHECKED: BC	APPROVED: BC
DRAWING NO. M121-SK04	REV: B	



TANKED POROUS PAVEMENT



TANKED POROUS PAVEMENT AT PROPERTY BOUNDARY



SWALE WITH HEADWALL