

Draft Local Development Plan



Public Consultation Questionnaire

Following consultation on the preferred options last summer, Maldon District Council has prepared a Draft Local Development Plan (LDP) which will help shape the future of the District over the next 15 years. The Council now wants to hear what YOU think about the main proposals in the Draft LDP. Information is provided in the leaflet and copies of the Draft LDP, Proposals Map and Sustainability Appraisal, are all available online at www.maldon.gov.uk and at the Council Offices. A series of exhibitions will be held throughout the District in September.

Comments should be made by completing this questionnaire and returning it to the Council in the attached stamped addressed envelope.

If you prefer, you can complete the questionnaire online on the Maldon District Council website at www.maldon.gov.uk

All responses must be received by 5pm on Monday 14th October 2013
[late responses will not be considered]

PART A - Your details (*anonymous responses cannot be considered*)

[Please print clearly in all written responses using **BLOCK CAPITALS** and **BLACK INK** else your data may be lost]

Name	CUBISM LAW ON BEHALF OF MALDON WICK LTD	Address	116-118 CHANCERY LANE
		Line 2	LONDON
Company <i>(if applicable)</i>	CUBISM LAW	Line 3	
		Line 4	
Email address:	DUNCAN.WARD@CUBISMLAW.COM	Postcode	WC2A 1PP

If you would like to be added to the Local Development Plan mailing list to receive updates on the progress of the Plan, please tick here (*please ensure your details are written clearly above*)

PART B -

Reference is made to the appropriate Policy/Appendix numbers in the Draft LDP.

Q1 The overall vision is to improve the quality of life for people living and working in the District and to provide the new homes, jobs and infrastructure required to meet identified needs and support the local economy, whilst protecting the District's heritage and environment.

Do you support the overall vision for the District set out in the Draft LDP? (please tick one box)

	Strongly Agree	Agree	No Opinion	Disagree	Strongly Disagree
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q2 In order to ensure the LDP will meet the requirements set by Government, the Council has reviewed the amount of development required to meet identified housing and employment needs over the next 15 years. As a result, it has been necessary to increase the proposed number of new homes from 3,000 to 4,410 and to allocate 8.4 hectares of additional employment land.

Do you support the proposed level of growth in the District (Policy S2)? (please tick one box)

	Strongly Agree	Agree	No Opinion	Disagree	Strongly Disagree
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q3 The main urban areas of Maldon, Heybridge and Burnham-on-Crouch are considered to be the most appropriate locations for new housing. Following consideration of alternative options which are detailed in the Draft LDP (Appendix 6), the following distribution is now proposed.

Do you support the proposed distribution of new housing (Policy S2)?

(please tick one box per line)

Settlement	Total number of dwellings	Strongly Agree	Agree	No Opinion	Disagree	Strongly Disagree
Maldon	1,830	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Heybridge	1,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Burnham-On-Crouch	450	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you disagree, is there an alternative distribution of new housing which you would prefer? [Please use BLOCK CAPITALS]

Q4 It is proposed to develop two Garden Suburbs in Maldon and Heybridge which will be comprehensively planned to ensure the provision of a mix of housing, community and educational facilities, open space and new transport provision.

	<i>Strongly Agree</i>	<i>Agree</i>	<i>No Opinion</i>	<i>Disagree</i>	<i>Strongly Disagree</i>
Do you agree with the proposals for development in Maldon and Heybridge (Policy S4)? <i>(please tick one box)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q5 The distribution of new housing in Burnham-on-Crouch has been reviewed in response to comments received during the last consultation. It is now proposed to distribute the new housing between three smaller sites instead of one large site.

	<i>Strongly Agree</i>	<i>Agree</i>	<i>No Opinion</i>	<i>Disagree</i>	<i>Strongly Disagree</i>
Do you support the strategy for housing development in Burnham-on-Crouch (Policy S6)? <i>(please tick one box)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q6 In response to comments made during the last consultation, the number of new dwellings to be accommodated in North Fambridge has been reduced from 300 to 75.

	<i>Strongly Agree</i>	<i>Agree</i>	<i>No Opinion</i>	<i>Disagree</i>	<i>Strongly Disagree</i>
Do you support the strategy for housing development in North Fambridge (Policy S7)? <i>(please tick one box)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q7 In order to provide for local housing needs and support local services, it is proposed to make provision for a total of 345 new dwellings in other rural villages in the District. A Rural Allocations Development Plan Document will be produced after completion of the LDP in consultation with local communities to identify appropriate sites for development.

	<i>Strongly Agree</i>	<i>Agree</i>	<i>No Opinion</i>	<i>Disagree</i>	<i>Strongly Disagree</i>
Do you support the strategy for housing development in other rural villages (Policy S7)? <i>(please tick one box)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q8 A policy has been included in the Draft LDP to ensure that the use or display of advertisements do not have an adverse impact on amenity and public safety.

	<i>Strongly Agree</i>	<i>Agree</i>	<i>No Opinion</i>	<i>Disagree</i>	<i>Strongly Disagree</i>
Do you agree with this approach (Policy D6)? <i>(please tick one box)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q9 The Draft LDP seeks to provide adequate land to promote employment development, job creation and to allow for the expansion of existing businesses.

	<i>Strongly Agree</i>	<i>Agree</i>	<i>No Opinion</i>	<i>Disagree</i>	<i>Strongly Disagree</i>
Do you support the proposals for new employment development in Maldon and the extension to the Burnham Business Park (Policy E1)? <i>(please tick one box)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q10 Increasing the supply of affordable housing is one of the Council's key priorities.

	<i>Strongly Agree</i>	<i>Agree</i>	<i>No Opinion</i>	<i>Disagree</i>	<i>Strongly Disagree</i>
Do you agree with the local requirements for affordable housing provision (Policy H1)? <i>(please tick one box)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q11 The Council is committed to working with our partners to improve healthcare facilities within the District

	<i>Strongly Agree</i>	<i>Agree</i>	<i>No Opinion</i>	<i>Disagree</i>	<i>Strongly Disagree</i>
Do you support development on an appropriate greenfield location at the edge of Maldon if it were to deliver a new Community Hospital or similar healthcare facilities (Policy I2)? <i>(please tick one box)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q12 Primrose Meadow is an area of green space situated off Mundon Road, Maldon

	<i>Strongly Agree</i>	<i>Agree</i>	<i>No Opinion</i>	<i>Disagree</i>	<i>Strongly Disagree</i>
Do you support the production of a Primrose Meadow Planning Brief to manage the future use of the site (Policy I3)? <i>(please tick one box)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q13 The Council has produced an updated Sustainability Appraisal to support the Draft LDP which is available on the Council's website. Do you have any comments on this? [Please use BLOCK CAPITALS]

Q14 Do you wish to comment on the Proposals Map or any other Policies in the Draft LDP?

Please enter here which Policy Number / Paragraph number you refer to

Please enter your comments in the box below [Please use **BLOCK** CAPITALS]

PLEASE SEE ATTACHED REPRESENTATION LETTER.

Q15 If you wish to make any other comments on the Draft LDP, enter your comments in the box below [Please use **BLOCK CAPITALS]**

PLEASE SEE ATTACHED REPRESENTATION LETTER.

Thank you for taking the time to complete this questionnaire. Your comments are important and will be fully considered. Please see Maldon District Council's website for future information about the progress of the LDP.

If you need further assistance please contact the Planning Policy Team by email at policy@maldon.gov.uk or by telephone on 01621 876202

This document can be made available on request in larger print, braille and audio and in languages other than English. To obtain a copy in an alternative format please contact the Planning Policy Team on 01621 876202.

Equality Monitoring

Maldon District Council is committed to providing services that meet the needs of its residents and to providing equal opportunity to all. In order to do this it is important that the Council understands who its customers are and who is using its services. The Council therefore asks for the following monitoring information.

Answering the questions below is entirely voluntary so please leave blank any questions that you are not comfortable answering. Any information you do give will be used to help us provide better services and to promote equality.

Information will only be used by Maldon District Council and its employees in accordance with the Data Protection Act 1998. Maldon District Council will not supply information to any other organisation or individual except to the extent permitted by the Data Protection Act and which is required or permitted by law in carrying out any of its proper functions.

Information given will be kept separately so that individuals cannot be identified and will be treated as confidential and only used for the purposes described. Any personal details given will not be used for any other purpose.

Please tick appropriate box(es).

Q16 Are you

Male	<input type="checkbox"/>	Transgender	<input type="checkbox"/>
Female	<input type="checkbox"/>	/Transsexual	<input type="checkbox"/>
		Prefer not to say.	<input type="checkbox"/>

Q17 Are you

Heterosexual.....	<input type="checkbox"/>	Lesbian or gay ...	<input type="checkbox"/>
Bisexual	<input type="checkbox"/>	Prefer not to say.	<input type="checkbox"/>

Q18 Age Group

Under 16	<input type="checkbox"/>	45-64.....	<input type="checkbox"/>
17-24.....	<input type="checkbox"/>	65 and over.....	<input type="checkbox"/>
25-44.....	<input type="checkbox"/>	Prefer not to say.	<input type="checkbox"/>

Q21 Do you consider yourself to have a disability?

The Disability Discrimination Act 2005 defines a person as disabled if he or she has a physical or mental impairment which has a substantial long-term adverse effect on his or her ability to carry out normal day-to-day activities. This would include progressive illnesses such as cancer.

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Prefer not to say	<input type="checkbox"/>

Q22 What do you consider to be your ethnic origin?

White - British	<input type="checkbox"/>	Asian or Asian British - Bangladeshi	<input type="checkbox"/>
White - Irish	<input type="checkbox"/>	Asian or Asian British - Other.....	<input type="checkbox"/>
Mixed - White & Black Caribbean	<input type="checkbox"/>	Black or Black British - Caribbean.....	<input type="checkbox"/>
Mixed - White & Black African.....	<input type="checkbox"/>	Black or Black British - African.....	<input type="checkbox"/>
Mixed - White & Asian	<input type="checkbox"/>	Black or Black British - Other.....	<input type="checkbox"/>
Mixed - Other.....	<input type="checkbox"/>	Chinese	<input type="checkbox"/>
Asian or Asian British - Indian.....	<input type="checkbox"/>	Other (please specify in box below **).....	<input type="checkbox"/>
Asian or Asian British - Pakistani	<input type="checkbox"/>	Prefer not to say	<input type="checkbox"/>

** Other (please specify)



Planning Policy
 Maldon District Council
 Princes Road
 Maldon
 Essex
 CM9 5DL



Date 29th August 2012

Sent by post and email (policy@maldon.gov.uk)

Dear Sir/ Madam

Maldon District Council: Local Development Plan Preferred Options Consultation (July 2012) - Representations on Policy N2 Sites of Local Ecological Importance on behalf of Maldon Wick Ltd

We write on behalf of our client, Maldon Wick Ltd (MW), in respect of the above.

Maldon Wick Ltd own and manage a 0.75 hectare site on the former Maldon - Woodham Ferrers railway line as identified on the attached Site Plan. The site is bounded to the north by West Station Road, Morrisons Supermarket to the west, Limebrook Way to the south and residential to the east. The site is identified as M3 on the Maldon Replacement Local Plan Proposals Map, and is also designated as a Local Wildlife Site (LoWS).

We have reviewed the MDC Preferred Options Consultation document and the evidence base documents, in particular the Maldon District Green Infrastructure Study (2011). We note under Chapter 6 Natural and Semi natural greenspaces - Quality (page 70) MDC reported that ' *it considered that an overall qualitative assessment is both inappropriate and impractical or the purpose of the Study given the wide ranging types of sites, difference in their function and character, uncertainty of ownership and accessibility and staff resources. Nonetheless, most site have been visited by Council officers where possible. Others have been assessed/ monitored by respective organisations who manage the site and through other relevant sources, such as the draft Maldon Natural Conservation Study (ECCOS 2007)*'. On this basis, it is unclear from the LDP evidence documents when the site was last evaluated in terms of its known local ecological importance in order to warrant its nature reserve and local wildlife site status.

Since 2009, three ecological appraisals have been undertaken of our client's site by Green Environmental Consultants (GEC) to review both the habitat and biodiversity species value of the site. The latest GEC ecological appraisal dated (August 2012) reviews previous site surveys undertaken using them as baseline data. A copy of the appraisal is attached.

GEC conclude :

- the Maldon Wick site as a poor site with low wildlife interest. It is not of substantive nature conservation value and probably never has been, and therefore does not meet the criteria for a Local Wildlife Site (Section 7, para1, page 21).
- LoWS designation of this small site is due to the historical association with the larger and more diverse EWT nature reserve to the south of Limebrook Way. In comparison with the remainder of the Maldon Wick nature reserve to the south, and due to a combination of physical and management factors, the northern part of the site is of low biodiversity interest, not of substantive nature conservation interest and has ceased to be a wildlife corridor (Section 7, paras 2 and 5, page 21).

Accordingly, we would recommend the site be removed from the M3 Maldon Wick Nature Reserve designation together with its associated Local Wildlife Site designation, to ensure that Policy N2 and its reasoned justification at 6.2.4 are not diluted by reference to inappropriately identified sites.

Yours faithfully

Duncan Ward
Cubism Law

Copy



Planning Policy
 Maldon District Council
 Princes Road
 Maldon
 Essex
 CM9 5DL

Date **14 October 2013**

Sent by post and email policy@maldon.gov.uk

Dear Sir/ Madam

**Maldon District Draft Local Development Plan 2014-2029 Consultation
 Representations on Policy N2 Natural Environment and Biodiversity on behalf of Maldon
 Wick Ltd**

We write on behalf of our client, Maldon Wick Ltd in response of the above.

Maldon Wick Ltd own and manage a 0.75 hectare site on the former Maldon – Woodham Ferrers railways line as identified on the attached Site Plan. The site is bounded to the north by West Station Road, Morrison’s Supermarket to the west, Limebrook Way to the south and residential to the east. The site lies within the northern part of the Maldon Wick EWT Reserve (which continues southwards for 1.5 miles) Way and is severed from that corridor by Limebrook Way.

Representations we previously submitted to the Local Development Plan Preferred Options Consultation in August 2012.

We have reviewed the Maldon District Draft Local Development Plan Consultation document and the evidence base documents and found these to remain unchanged following the previous consultation in August 2012. We have also reviewed Essex Biodiversity Action Plan (Essex Biodiversity Project 2011) and their web link to Essex Local Wildlife Sites. However, we do note that our client’s site is now identified as Ma35 on the draft Local Development Plan Proposals Map, as part of the proposed Local Wildlife Site (LoWS) designation

On the basis, our client’s site remains proposed within the Maldon Wick Nature Reserve designation in the knowledge here has been no change to the evidence base following the last consultation. We therefore reattach our original representation (dated 24 August 2012), setting our justification for the site removal from the designation and ask that this is now considered by your Council when preparing the LDP.

Yours faithfully

5680953v1



Duncan Ward
Cubism Law

Enc

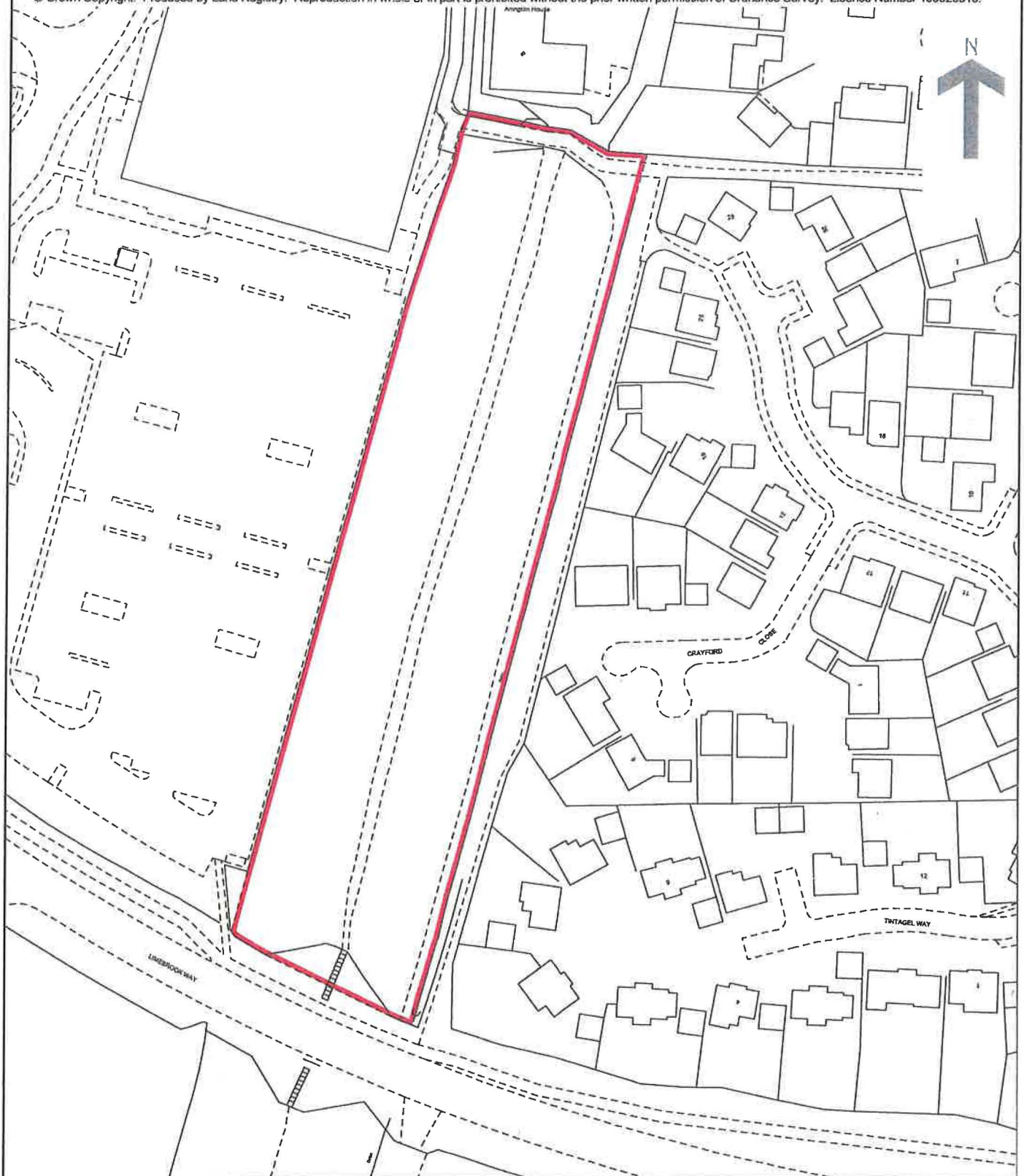
Maldon Wick Ltd Representation dated 24 August 2012 inc Site Plan
Green Environmental Appraisal, August 2012

Land Registry
Official copy of
title plan

Title number **EX837660**
Ordnance Survey map reference **TL8405NW**
Scale **1:1250** enlarged from 1:2500
Administrative area **Essex: Maldon**



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This official copy issued on 14 July 2009 shows the state of this title plan on 14 July 2009 at 08:44:03. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).

This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title Plans and Boundaries.

This title is dealt with by Land Registry, Peterborough Office.

**DISUSED RAILWAY LINE
ADJACENT TO MORRISON'S SUPERMARKET
NORTH OF LIMEBROOK WAY
MALDON
ESSEX**

ECOLOGICAL APPRAISAL

August 2012

Report for

Maldon Wick Ltd



Green Environmental Consultants

Green Environmental Consultants Limited
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Document number: 723/4

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**DISUSED RAILWAY LINE, ADJACENT TO MORRISON'S SUPERMARKET, NORTH OF LIMEBROOK WAY,
MALDON, ESSEX
ECOLOGICAL APPRAISAL**

CONTENTS

0	EXECUTIVE SUMMARY.....	1
1	INTRODUCTION AND OBJECTIVES.....	3
2	SURVEY METHODOLOGY	
2.1	Data Search.....	3
2.2	Habitat Survey.....	4
2.3	Scoping for Protected and Biodiversity Species.....	4
2.4	Bat Survey.....	4
2.5	Dormouse Survey.....	5
2.6	Badger Survey.....	5
3	SURVEY RESULTS	
3.1	Data Search.....	6
3.2	Habitat Survey.....	7
3.3	Bat Survey.....	8
3.4	Dormouse Survey.....	9
3.5	Badger Survey.....	9
3.6	Biodiversity Species.....	9
3.7	Invasive Species.....	10
4	LEGISLATION & PLANNING	
4.1	Legislation.....	10
4.2	Planning.....	11
5	SITE EVALUATION.....	13
6	LOCAL WILDLIFE SITE STATUS	
6.1	LoWS Definition.....	15
6.2	LoWS in Relation to This Site.....	20
7	CONCLUSIONS.....	21
8	BIBLIOGRAPHY.....	22
	APPENDIX I	
	Protected Species Status.....	25
	APPENDIX II	
	EWT Local Wildlife Site Description.....	31
	Species Records.....	33
	Photographs.....	35
	Drawing 723/4/1 Habitat Map.....	39
	Drawing 723/4/2 Bat Activity Map.....	41

Limitations of Surveys and Report

This report records wildlife found during the survey and anecdotal evidence of some species. Access, seasonality and weather conditions may affect survey results. It does not record any animals or plants that may appear at other times of the year and were therefore not evident at the time(s) of the visit(s). Habitats outside the site boundary were only visited where considered appropriate and where access was available.

The behaviour of animals can be unpredictable and may not conform to standard patterns recorded in current scientific literature. Many species such as bats are highly mobile and can occupy a site which has previously held no potential for them and factors such as increasing habitat pressure can cause animals to occupy areas that were previously unoccupied, or which might be considered far from suitable. This report therefore cannot predict with absolute

This report takes into account the particular instructions and requirements of our client.

It is not intended for and should not be relied upon by any third party and no responsibility is undertaken to any third party.

This report has been completed in accordance with IEEM good practice guidelines.

Jacqui Green

0 SUMMARY

A section of the former Maldon-Woodham Ferrers railway line located to the north of Limebrook Way, and east of Morrison's supermarket, Maldon, has been surveyed over a number of years to record protected and biodiversity species and to evaluate its wildlife status.

Description and Results

The Site is small (approximately 0.75 ha), aligned north-south, with the bypass, B1018 Limebrook Way, forming the southern boundary. Segments of the former railway line to the north has already been developed; the surrounding land is also developed for a range of land uses. This small area is the remaining section of railway line between the built area of Maldon and the Limebrook Way. A longer section of the disused railway line lies to the south of Limebrook Way which is identified as an Essex Wildlife Trust nature reserve, and a Local Wildlife Site (LoWS). For historical reasons the northern section which is the subject of this report, is included within the LoWS.

The course of the former railway line is on an embankment raised above the surrounding land and has development (industrial units, supermarket, housing) on three sides, and a road, Limebrook Way, on the fourth. Due to minimal management over many years, the Site has become very overgrown with trees and dense scrub shading out ground flora. An informal path (now closed) along the spine formerly kept a small strip of grassland open, but this is now also shaded and mostly lost.

Most of the trees are semi-mature but there is a small number of older and larger trees on the Site. The dense scrub has shaded out all but the most resilient ground flora such as ivy and Brambles, and as a whole the Site is likely to be unattractive to most fauna.

Protected species surveys found only foraging pipistrelle bats with no evidence of roosting, and a former Badger outlier hole is now abandoned. A Dormouse survey found no evidence of this protected species. The high density of mid-canopy and poor upper canopy which is lit at night from adjacent land including the supermarket and footpaths, indicates poor habitat for the invertebrates for which the LoWS south of the road is known. This high density structure is also becoming poorer for nesting birds. Its lower former interest (when compared to the railway line south of Limebrook Way) and the long period with little or no management strongly suggest that it is unlikely to be returned to anything other than of Local interest as much of the species and habitats are not present or exist in poor quality (eg grassland).

The presence of mature broad-leaved trees provides some ecological interest but their main function is in landscaping terms.

As a result this area is considered to be of low ecological value.

Conclusions and Discussion

An analysis of national and Essex Wildlife Sites Criteria is provided. Using these criteria,

it is concluded that, as the site is of low ecological value it cannot be of substantive nature conservation interest, which is required to reach the status of Local Wildlife Site (LoWS).

This site was included within the original LoWS to act as a buffer at its northern end and to extend the wildlife corridor to the better area to the south. It is argued here that the severance of this site from the main area by construction of the Limebrook Way road in 1986, has acted as a significant barrier to its colonisation by sensitive species of low mobility, and the further degradation of habitat means that its former low quality habitat has deteriorated even further, thus being of low attraction to the more mobile species such as specialist invertebrates.

The Site no longer acts as a wildlife corridor as all the surrounding land is developed and therefore leads nowhere; it is also not a buffer to the better area to the south as the Limebrook Way is a clear severance feature.

It is on this basis that the inclusion of this Site within the overall LoWS is considered to be spurious and not warranted by its low ecological value.

1 INTRODUCTION & OBJECTIVES

The disused Maldon to Woodham Ferrers railway line runs from south of Limebrook Way where it is part of an Essex Wildlife Trust nature reserve, more or less northwards in to the more developed part of Maldon. The large majority of the railway line north of Limebrook Way has already been developed. Part of the former railway line, in an area known as 'West Station Road', was the subject of an ecological survey and assessment prepared by Green Environmental Consultants in 2003 and has subsequently been built on. The Site described in this report relates to land that is immediately south of West Station Road, north of Limebrook Way, and east of Morrison's supermarket and car park; as the supermarket is the closest and most obvious feature in this area, this section of former railway line is described as "adjacent to Morrison's" to differentiate it from other sections (see drawing 723/4/1 habitat map on page 39 for these features).

Within the adopted Local Plan, the subject site is identified as falling within site allocation M3 Maldon Wick EWT reserve. The reserve straddles Limebrook Way for 2.4 kilometres. The subject site ('the Site') measures 0.75 hectares. In October 2009 Green Environmental Consultants were appointed to undertake a site appraisal: this included an extended Phase One habitat survey, and scoping for protected and biodiversity species. In February 2010 the Site was again visited, accompanied by an arboriculturalist, when some species surveys were also undertaken. As wildlife surveys have a short shelf-life, the opportunity has been taken in 2012 to undertake the appraisal again plus species surveys, and to revisit conclusions drawn about the status of the site, which might have changed in the intervening two years.

This report draws together observations made between 2009 and 2012. This report is written by Jacqui Green BSc(Hons), MSc, CEnv, FIEEM who has in excess of thirty-five years experience of conducting wildlife surveys. Binomial scientific names are given after the first mention of a species only; plant names follow the Botanical Society of the British Isles nomenclature.

Objectives

- To up-date the extended Phase 1 habitat survey; and
- to undertake a scoping for protected or biodiversity species; and
- to survey for bats, Dormice and Badgers; and
- to assess the site in relation to the Local Wildlife Sites criteria.

2 SURVEY METHODOLOGY

2.1 Data Search

A data search was undertaken from EECOS the consultancy arm of the Essex Wildlife Trust who hold extensive records for Essex, and who, as an arm of the Wildlife Trust, have

information about the Local Wildlife Sites (LoWS). Additional species searches were made from the Essex Field Club.

2.2 Habitat Survey

A Phase 1 habitat survey of the site was conducted according to a methodology devised by the Nature Conservancy Council (revised JNCC 2010). Observations of unusual flora or faunal activity were made as per extended Phase 1 survey methods.

Species were recorded according to the DAFOR scale. DAFOR is a way of recording cover abundance of species, it is an acronym and stands for:

D = Dominant; A = Abundant; F = Frequent; O = Occasional; R = Rare.

When prefixed by an 'L' this is short-hand for Locally (Frequent, Abundant etc); co-D stands for co-dominant. When used in this context 'rare' does not mean a plant is nationally rare or even unusual, it refers to the small number of plants or its low cover recorded in that particular area only.

The original survey was undertaken by Jacqui Green BSc(Hons), MSc, CEnv, FIEEM on 29 September 2009, updated on 16 January 2010, and completely revised and up-dated on 23 May 2012 when the weather was clear and bright.

Survey Limitations

In 2012 the density of scrub and Brambles made it impossible to penetrate far in to the site from the northern end; the southern end is now completely impassable. When areas could not be accessed, they were seen from the outside the Site boundaries through mesh fencing.

2.3 Scoping for Protected & Biodiversity Species

Information from the habitat survey was used to scope (look for indicative habitats, niches or other signs) for protected or biodiversity action plan habitats and species (H & SBAP), which may require more detailed survey. Adjacent land was included in this scoping to assess if any protected species might be present on land nearby. Maps and aerial photographs were also used to identify features which might be hidden by vegetation or fencing.

The scoping and results from previous surveys identified a few potential species requiring surveys: Badgers and bats primarily. As a record of a nut eaten by a Dormouse has been recorded from the nature reserve south of the Site, the possibility of Dormice in this area was also considered. The habitat is far from ideal for Dormice, and none have been reported from the period when it was included as part of the nature reserve. As a precautionary principle a Dormouse survey was included in this assessment.

2.4 Bat Survey

Bat surveys have been undertaken by John Dobson, a bat worker and trainer licensed

by Natural England (Licence No. 20120353), and author of *The Mammals of Essex*.

In 2009 a survey of trees was undertaken to identify potential bat roosts. This was carried out on 11 November 2009. Trees were examined for loose bark, holes and crevices that could potentially be used by roosting bats. Trees were identified as being of low, medium or high potential.

In 2010 and 2012 activity surveys were also undertaken as follows:

At the start of the survey, the surveyor was located at the NE corner of the site, at the junction of three public footpaths. From here, bat activity from the east south and west could be observed. After twenty minutes (when the first bat had been recorded), two circuits of the site were monitored for bat activity. The survey continued until seventy-five minutes after sunset.

Bat activity was recorded using a BatBox Duet frequency division bat detector connected to a Sony Minidisk recorder. Recordings were later analysed using 'Bat Sound' sound analysis software.

The weather conditions for the 2012 survey were as follows:

Date	Sunset Time	Temperature	Weather	Cloud cover
28 th May	21.02	21°C	mild and still	50% high cloud

2.5 Dormouse Survey

John Dobson, a bat worker and trainer licensed by Natural England (Licence No. 20120353), experienced Dormouse surveyor and author of *The Mammals of Essex*, carried out the survey on 23rd May, 20th June, 13th July and 9th August 2012.

Dormouse tubes were fixed to the underside of branches at a variety of heights and at least 20m apart. The tubes are composed of a plastic nest tube and wooden tray with dimensions of 65mm x 65mm x 250mm. The tubes were set in May, and inspected by looking along the tube on 20th June, 13th July and 9th August 2012 to examine for evidence of nesting material, droppings or other features.

Survey Limitations

The southern end of the site is completely impenetrable and so the tubes were placed in a variety of locations in the northern half only.

2.6 Badger Survey

A Badger survey was conducted on 16 January 2010, and repeated on 23 May 2012, by Jacqui Green BSc(Hons), MSc, CEnv, FIEEM who has over 35 years experience of undertaking Badger surveys.

Badgers can be located by searching for signs of activity such as holes, latrines, paths, bedding etc. Paths are often the first thing seen, and in such cases, are followed to try to find other evidence such as setts or latrines. In some cases they cannot be followed into, for example, dense scrub, or where they move onto neighbouring land for which access is not available.

Mammal paths are often used by a number of species such as Rabbits *Oryctolagus cuniculus* and Foxes *Vulpes vulpes*. In these instances other signs were investigated, for example, where mammal paths cross boundaries such as fences these can be examined for hairs which might be caught on wire thus showing which animal had passed along that path, or prints which may be left in muddy patches.

Survey Limitations

The southern end of the site is completely impenetrable. However, in addition to the search of the Site at the northern end, the complete exterior of the site was walked searching for evidence of animals leaving or entering the area across /under boundary fencing.

3 SURVEY RESULTS

3.1 Data Search

Detail is provided in appendix II.

The main interest of Maldon Wick Nature Reserve is its butterflies. Twenty-eight species have been recorded from the site, including Purple and Green Hairstreaks, the White-letter hairstreak, and Ringlelet. In addition to the invertebrate interest there is a variety of plants including Primroses *Primula vulgaris*, Moschatel *Adoxa moschatellina*, and Spindle *Euonymus europaeus*. Nightingales, Bullfinch and Turtle Dove all breed on the reserve and Dormouse has been recorded (EWT SINC citation).

In 2007 a resurvey and review of the Maldon area SINC's (EECOS 2007) was conducted by Essex Ecological Services Ltd (EECOS), part of the Essex Wildlife Trust, when an amendment was made to the reserve being the addition of Maldon Wick Meadow (site M3 at TL 842057). This 2007 review mapped the railway line including the area north of Limebrook Way, along with the meadow addition and described it as follows:

Ma35 Maldon Wick (7.7 ha) TL 842057

This site is an Essex Wildlife Trust nature reserve¹ and an important corridor consisting of a mosaic of woodland, scrub, grassland and a large pond. The site is composed of two and a half kilometres of abandoned railway line, now woodland and scrub, together

¹ In fact the land to the north of Limebrook Way is no longer part of the nature reserve.

with the adjacent Maldon Wick Meadow, grassland with a large pond and scattered Silver Birch (*Betula pendula*).

Since the early 1980s, the Essex Bat Group has monitored the status and distribution of bats in this area. Records occurring within a 2km radius of the site are given in appendix II.

A review of existing records of the Hazel Dormouse in the area are also in appendix II. All the records refer to animals from the group of woodlands at Danbury and Bicknacre.

3.2 Habitat Survey

Habitats and features mentioned below are shown on drawing 723/4/1 and photographs in appendix II.

The former Maldon to Woodham Ferrers railway line north of Limebrook Way is aligned north-south. This section of land, subject of this report, is small in area, being barely 150m long by less than 50m wide (approximately 0.75 ha). The West Station Road area to the north has already been developed with small industrial units; the surrounding land is also developed for a range of land uses including industry, housing and retail. This small site is the remaining section of railway line between the developed area to the north, and the B1018 Limebrook Way to the south. To the south is the road, to the north is a public footpath and cycleway as well as industrial units; to the east is a public footpath running between the Site and housing, whilst to the west is a supermarket and associated car park.

In 2009 the site was described thus:

The high banks of the former railway embankment are dominated by dense, tall, scrub which shades out most ground flora. It is dominated by leggy, unmanaged Hawthorn *Crataegus monogyna* with Pedunculate Oak *Quercus robur* trees, and Ash *Fraxinus excelsior* colonising. Although the main habitat in percentage terms is dense scrub, over-topping trees are present and, in keeping with the arboricultural survey, this area is mapped as woodland /tree belt. The density of shade means that little ground flora exists but where present Ivy *Hedera helix* dominates, with Bramble *Rubus fruticosus* on the edges. On the more open upper slopes a little Honeysuckle *Lonicera periclymenum* is present.

The western boundary with the supermarket car park is more open but is beginning to colonise with scrub, and in places trees and ornamental species are present by the fence. It is likely that the ornamental shrubs etc have seeded from garden and other rubbish dumped over the fence from the car park, which is frequent in places.

On the eastern side is a footpath and also a ditch which was recorded as dry in 2009 and which had very recently been cleared out. At either end of the embankment (north and south) are steps and to the south they are surrounded by tall ruderal vegetation dominated by Briar *Rosa* sp and Goat Willow *Salix caprea*, with small Ash

also present. It is probable that the Briar and willow were planted along the road bank as they do not occur in any frequency within the main area of the Site. A fence appears to mark the boundary between the Site and the highway, in which case the ruderal and willow scrub vegetation is not within the Site.

The main point of potential interest is the former path along the spine. Although worn to compacted bare soil some grassland does survive in narrow strips on either side of the path. Although poor, it is possible that forbs such as Common Knapweed *Centaurea nigra* would be found in a Spring survey, although seed heads of plants indicating greater diversity were not present as would have been expected in September.

2010 update:

In 2010 the land was more overgrown with grater scrub density under and by the trees; the path was already becoming overgrown in places. It was noted that the ditch carried more water than previously.

2012 survey:

A resurvey in 2012 found the Site to be fenced and left unmanaged (although management was always rather poor). The southern half of the site is completely impenetrable and the tall ruderal vegetation previously mapped at the southern end gateway have been replaced by scrub. This applies equally to the path along the top of the embankment (former railway line), and the former strip along the western boundary, both of which have naturally been seeded by scrub plants and quickly becomes impenetrable. Where the scrub on the lower banks is of longer establishment, especially on the eastern side, the ground flora is virtually non-existent and so it is possible to find a route to the ditch by dodging branches and Brambles.

There was no evidence of grassland except in very small patches at the northern tip of the site where there is still a small open area just inside a gateway. The canopy is dense and very little light reaches the ground, with resulting equally poor ground flora. Where it does survive it is dominated by Ivy *Hedera helix*, with Bramble *Rubus fruticosus*, and in places, some Cock's-foot *Dactylis glomerata*, Sterile Brome *Bromus sterilis*, Wood Avens *Geum urbanum*, with Creeping Bent *Agrostis stolonifera*, and a little False Wood-brome *Brachypodium sylvaticum* present.

The ditch had a little water but no emergent flora. It is heavily shaded by over-hanging dense Hawthorn *Crataegus monogyna* and Damsons *Prunus domestica*.

3.3 Bat Survey

In the 2009 survey an assessment of selected trees (identified for potential management) found them all to be fairly young with no knotholes or other potential for bat roosts. The 2012 survey found:

a high level of artificial illumination at the site with one light pillar at the northern end, twelve lights along the western boundary with Morrison's car park, eight down lighters

in a Morrison's canopy adjacent to the site boundary and two streetlights at the southern end of the site. Bat activity is shown on the annotated Site Plan drawing 723/4/2 in Appendix II.

During the survey on **28th May**, bat activity was recorded as follows:

- at 21.18 (sixteen minutes after sunset), a Common Pipistrelle recorded foraging amongst trees to the north of the site boundary.
- at 21.28, a Common Pipistrelle recorded foraging at the southern end of the site.
- at 21.33, a Common Pipistrelle recorded foraging amongst trees along western boundary.
- at 21.34, a Noctule flew N-S across the site.
- at 21.38, a Common Pipistrelle recorded foraging at the start point of the survey.
- at 21.41, a Common Pipistrelle still present amongst trees beyond northern boundary.
- at 21.53, a Common Pipistrelle recorded foraging over garden to east.
- at 21.56, a Common Pipistrelle recorded foraging at the southern end of the site.
- at 22.04., a Common Pipistrelle recorded foraging over the northern end of the site.

From this time, no bat activity was recorded for the duration of the survey, which finished at 22.20.

3.4 Dormouse Survey

No evidence of the presence of Dormice was found in the tubes.

3.5 Badger Survey

In 2010 one outlier hole, in active use, was located on the eastern side of the embankment. In 2012 this hole was found to be dormant and long abandoned.

No evidence of Badgers or other large mammals was found crossing under or through the boundary fencing in areas of impenetrable scrub or elsewhere, and it is concluded that Badgers have abandoned this part of the former railway line.

3.6 Biodiversity Species

Although no invertebrate survey was conducted, this part of the former railway line is acknowledged to have been of lower interest for the specialist species than the area south of Limebrook Way (Essex Wildlife Trust pers com), even before its deterioration. A very dense mid-canopy of scrub has developed and little daylight is received. Although most hairstreaks prefer higher canopy areas, this area is still of low biodiversity value in comparison to the southern part as it has few "open canopy" areas and is well lit. This

area is a poor environment for the specialist invertebrates for which the rest of the railway area is known.

A variety of birds are likely to use the area, and some of these are likely to be Birds of Conservation Concern. Again, the density of the mid-canopy makes this area less attractive and few birds were observed on site visits.

3.7 Invasive Species

None of the notifiable non-native weed species were recorded.

4 LEGISLATION & PLANNING ISSUES

4.1 Legislation

4.1.1 European Protected Species (bats, Dormice, Great Crested Newts etc)

EPS are protected under the EC Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora (the Habitats and Species Directive). This legislation is enacted under the Conservation (Natural Habitats &c.) (Amendment) (England and Wales) Regulations 2010 (the 2010 Regulations). See appendix I for more information.

4.1.2 Wildlife & Countryside Act 1981 & Amendments - Protected Species

4.1.2.1 *Reptiles*

Two reptile species are given full protection under the Wildlife and Countryside Act - the Sand Lizard and Smooth Snake. Other species, Grass Snake *Natrix natrix*, Slow-worm *Anguis fragilis*, Viviparous (Common) Lizard *Zootoca vivipara* and Adder *Vipera berus* have partial protection. That is, they are protected under the Wildlife and Countryside Act 1981 (part of Section 9(1) and all of Section 9(5)). That is, they are protected against intentionally killing and injuring (but not 'taking'), and against sale *etc.*; they are also on the Biodiversity Action Plan Priority List (Anon 1994).

4.1.3 Other Species Legislation

Certain species are protected under other legislation eg the Protection of Badgers Act 1992 gives special protection against harm to Badgers or their setts. See appendix I for more information.

4.1.4 Biodiversity Species and Habitats

A number of species and habitats which do not merit national protection are nevertheless threatened or endangered at a more localised scale, usually at a county level, or have been discovered to have undergone a rapid decline. These are listed on the UK or County (Local) Biodiversity Action Plans (BAPs) and would be considered to be part of the National Planning Policy Framework lower tier.

Biodiversity species or habitats are often the reasons for which Local Wildlife Sites (LoWS) are selected. That is, they do not have sufficient interest to be statutorily notified, but retain important local features, species or habitats.

Birds of Conservation Concern (BoCC) have no legal status, nor do regionally important assemblages of birds, but would be considered to be biodiversity issues at a local (parish or neighbourhood) scale. BoCC can be Red (most important), or Amber listed.

4.1.6 Birds

All nesting birds are protected under Section 1 (1)(b) of the Wildlife and Countryside Act (1981) (*ibid*). It is an offence to:

... intentionally take, damage or destroy the nest of any wild bird while that nest is in use or being built; or take or destroy an egg of any wild bird.

As a consequence no scrub or tree clearance or management should be undertaken during the nesting season, unless works to make the habitats unsuitable are first undertaken, or a detailed examination before clearance starts declares the area free. Nesting includes ground-nesting birds such as Skylarks. The nesting season is generally taken to be between mid-March and mid-June, with an extension into August or September if second broods are present.

4.2 **Planning**

4.2.1 National Plans

The National Planning Policy Framework (NPPF) has as a fundamental aim to contribute to and enhance the natural and local environment by, amongst other things:

- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

and

- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

When determining planning applications (paragraph 118), local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

- opportunities to incorporate biodiversity in and around developments should be encouraged;
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats... ;

Paragraph 125 - By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

4.2.2 Local Plan Policies

Maldon District Replacement Local Plan was adopted in November 2005. MDC are preparing a Local Development Plan which will become the statutory development plan once adopted. This document will reflect the National Planning Policy Framework (NPPF). MDC currently have on consultation the Preferred Options document and there are a number of preferred options policies up for review relating to nature conservation and green infrastructure.

Policy N1 Green Infrastructure Network says that:

'Networks of green spaces and corridors provide opportunities for recreation, walking and cycling and also benefit wildlife by conserving and enhancing habitats, and providing buffers from development to important wildlife sites and watercourses. It is part of, and contributes to, a high quality natural and built environment which can help to enhance the quality of life for present and future residents and visitors as well as delivering a sustainable community.' paragraph 6.1.2.

The preferred policy (N1) wording is:

'A strategic multi-functional network of green infrastructure will be identified, managed and where possible, enhanced. Open spaces and areas of significant biodiversity interest will be protected. The creation, restoration, enhancement, expansion and interconnection of these sites will be encouraged as part of the green infrastructure network.'

'There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing and proposed green infrastructure. Where there is no adverse impact or the adverse impact can be satisfactorily mitigated, development proposals which promote the use and enjoyment of the natural environment will be encouraged.'

Policy N2 Natural Environment and Biodiversity states that:

'To protect the District's natural environment and biodiversity, developments should not have a detrimental impact on sites of local

ecological significance both in terms of quantity, quality and connectivity. The Council may require the developer to submit an ecological survey where there is a reason to suspect the presence of important wildlife or that the site is of local ecological value.' paragraph 6.2.4.

The preferred policy option also states that:

'The Council will aim to protect the biodiversity and recreational value of any identified local wildlife sites and semi natural green spaces. Where the creation or relocation of habitat is required, development should result in no net loss of these sites in terms of quantity, quality and connectivity.'

5 SITE EVALUATION

The Site a very small area of former railway line. Although disused railways are usually acknowledged to have some wildlife interest, this is usually in relation to the atypical substrates and the open grassland which can attract a variety of invertebrate wildlife. The habitats and soils/substrates which normally make disused railway lines of interest, are not present in this case.

It is important to put records and results into context using criteria such as designation, rarity, vulnerability, threat, location in a linkage of sites or features, importance at a given scale (eg national, local, parish) etc.

Evaluation criteria developed by the Institute of Ecology and Environmental Management for Environmental Impact Assessment (IEEM 2006) are given below:

Table 1 Ecological Valuation Levels

Level of Value	Comment
Inter-national	Sites, habitats or species protected under international legislation eg. Habitats and Species Directive. These include, amongst others: cSACs, SPAs, Ramsar Sites, Biosphere Reserves, plus undesignated sites supporting populations of internationally important species.
National	Sites, habitats or species protected under national legislation e.g. Wildlife & Countryside Act 1981 and amendments. Sites include SSSIs, NNRs, Marine Reserves, plus areas supporting significant areas of UK Biodiversity Action Plan habitats, or breeding populations of rare (Red Data Book) species.
Regional	Sites, habitats or species which may have regional importance, but which are not protected under legislation (although Local Plans may specifically identify them) e.g. viable areas or populations of Regional Biodiversity Action Plan habitats or species.

County	Sites, habitats or species meeting the criteria for County, Metropolitan or Unitary Authority area designation (e.g. County Wildlife Site, Key Site). This category includes designated Local Nature Reserves, which have statutory protection. Sites containing viable area or populations of County Biodiversity Action Plan habitats or species, local Red Data Book species etc.
District	Undesignated sites or features which enhance or enrich the local area (Borough, District etc). Sites containing viable area or populations of local Biodiversity Action Plan habitats or species, local Red Data Book species etc.
Local or Parish	Undesignated sites or features, which enhance or enrich the wildlife resource at a Parish or neighbourhood level.
Zone of influence	Includes nil or low ecological value but which form a function within the site or immediate surroundings.

These ecological valuation criteria are then applied to the subject site as seen below in table 2.

Table 2 Site Ecological Valuation Levels

Level of Value	Comment
Inter-national	Foraging and commuting bats of low significance.
National	Badger outlier no longer active.
Regional	None.
County	None.
District	Local invertebrates of note on other areas of the railway line are unlikely to be present in this section as most habitats are not present.
Local or Parish	Some mature trees of note for arboricultural and landscaping reasons.
Zone of influence	Small numbers of red List bird species may use the area but are unlikely to be present in significant numbers.

The above table suggests a very low wildlife interest on the Site, but with landscaping interest in relation to the trees on the site. The occasional presence of foraging but not roosting bats of the more common species does not raise this site to international level.

Even taking into account the potentially greater importance of location within an urban area, and the presence of a nearby Local Wildlife Site (LoWS), this does not raise the interest of this isolated and poor quality, small site. Therefore, the current information values the Site as of 'zone of influence' level, as it has a low ecological value. Even prior to cessation of management, the evaluation would not have been higher.

6 LOCAL WILDLIFE SITE STATUS

6.1 LoWS Definition

Statutory sites are designated as of special importance to protect the UK's most valuable and/or most threatened or rare habitats and species. But it is recognised that another tier of sites is required to protect and enhance biodiversity at a local scale. For decades Counties have identified sites containing the best reservoirs of local biodiversity and designated them as Sites of Importance for Nature Conservation. These were then changed to County Wildlife Sites, and more recently, to Local Wildlife Sites or LoWS (as not all designating authorities are counties).

In 2006 DEFRA published a set of national criteria to unify designation and to eliminate some of the more arbitrary rulings. Now, all counties or other areas, should use these criteria, but can apply local adjustments based on knowledge of more localised threats, rarity or other factors ('...this national guidance simply provides a standard framework against which to structure assessment of local nature conservation priorities, rather than a rigid set of rules.' DEFRA 2006 paragraph 39).

The document criteria are:

'The selection of Local Sites to help sustain biodiversity should be founded on national, regional and local biodiversity priorities. Other habitats and species features should also be considered if they contribute substantially to local natural character, even if they are not selected as priorities within the local BAP.' (Paragraph 39).

'The effective selection of sites depends on a good knowledge of the natural character of an area and the broad extent and quality of the nature conservation resource from which sites will be selected. Such information needs to be updated and reviewed from time to time to inform the setting of priorities and objectives for local biodiversity and geological conservation, which themselves inform the selection of Local Sites.' (Paragraph 41).

'Local Site systems should select all areas of substantive nature conservation value. Developing the criteria will hinge on defining what qualifies as 'substantive' in the local context. This is a complex issue affected by many factors including:

- *determining criteria thresholds for the nature conservation benefits to be secured through any particular Local Sites system. This will involve considering the amount and distribution of locally significant species, habitats and geological features to be selected into the system;*
- *distribution, abundance and increasing or declining trends in the nature conservation resources;*

- *maintaining viable populations and functioning ecological communities;*
- *differing abundance and therefore significance of the nature conservation resources, for example between rural areas and urban areas;*
- *general paucity of natural interest in the area; and,*
- *the importance of certain features at the edge of their range.'* (Paragraph 42).

In terms of site review, the DEFRA document also states that:

'We recommend that Local Site systems should from time to time:

- *aim to reconsider whether they are operating in the most effective way to achieve the overall objective set out in the Introduction to this guide;*
- *ensure that they continue to represent an adequate selection of sites of nature conservation interest in the area; and,*
- *consider the information on the condition of Local Sites and the effectiveness of measures for their conservation and management.'* paragraph 81.

And:

'It is important for the integrity and utility of Local Sites systems that the appraisal of sites remains valid and up to date.' paragraph 83.

In 2008 Essex Local Wildlife Sites Criteria were drawn up, subsequently revised in 2009, and minor amendments in 2010 (Essex Wildlife Trust 2010). This document seeks to extract the criteria from the national (DEFRA) document and apply it at a County scale. Thus, their selection criteria include:

- *'... the sites should play a key role in delivering the objectives of national and local (at county or local authority level) Biodiversity Action Plans.*
- *The suite of sites should represent local character and distinctiveness, embracing the range of variation of any given habitat type within the area in which the LoWS system will be operating (in this case, across Essex).*
- *That the resultant suite of sites, when viewed alongside SSSIs, should embrace the full range of important species and habitats for the target area covered by the LoWS Partnership at a level necessary to maintain the nature conservation interest of the area. In other words, all populations and habitat ecosystems should be sustainable within the LoWS/SSSI network.*

- *All sites that meet the criteria should be selected, with such sites displaying substantive nature conservation interest. The key to determining a successful site selection process is to define what is "substantive" across a broad range of habitats and species, encompassing many and varying degrees of interest. This needs to consider the relative conservation merits of a locally rare example of a nationally more common habitat or species assemblage against a local abundance of a nationally scarce or rare resource; the value of a small population on the edge of its range against a large population at the core of a species' distribution.*
- *The key qualities of habitats or species assemblages should be assessed in terms of the following factors: size or extent, diversity, naturalness, rarity or exceptional quality, fragility, typicalness, recorded history and cultural associations, connectivity within the landscape, educational or recreational value. Clearly, no one site will embrace all these features and several (e.g. rarity and typicalness, fragility and opportunities for learning) are antagonistic. It should be stressed also that for many Sites public access would be quite inappropriate, if in private ownership, and LoWS status should not be taken to imply public access to a piece of land.*
- *The selection process should not completely do away with ecological experience and sound judgement, reducing the process to a mere mechanical, rule-based approach.'*

For woodland, scrub and related habitats their criteria state that:

A wide range of woodland and scrub habitats are found in the county, including ancient semi-natural woodland, plantation woodland (including those on ancient woodland sites), woody scrub, pasture woodland, parkland and orchards. Remnant woodland features may also occur outside of woodland habitats and are often of high ecological interest, for example individual veteran trees and ancient species-rich hedgerows. This rich and varied woodland resource requires a holistic approach to its conservation to ensure that the full range of woodland habitats and their associated biological diversity are retained and protected within the LoWS network. This will require criteria that select both ancient and recent woodland stands, areas of scrub where little wood remains and woods that form part of a mosaic of habitats where the key quality is the complex interrelationship between two or more habitat types. (Para 4.2.2).

There are three key components to the selection of woodland LoWS in Essex:

- '1. The recognition of ancient woodlands as the closest surviving links to the truly natural vegetation of the vast majority of the*

county, even though such sites have invariably been modified by centuries of management and incidental influence by Man....

2. The conservation of the range of national Priority BAP Habitat woodland types to be found in Essex. The woodland BAP Priority Habitats to be found in Essex are: Lowland Mixed Deciduous Woodland (which will encompass the majority of Essex's ancient woods), Lowland Beech and Yew Woodland (such Beech woods are rare in Essex and Yew woods non-existent) and Wet Woodland.
3. The role that woodlands, along with hedgerows, play in terms of providing habitat connectivity in what may otherwise be a wildlife unfriendly arable landscape.' (Para 4.2.3).

It also recognises that:

'Recent woodlands may also provide important landscape ecology functions. This may include, for example, acting as disturbance buffers and wildlife corridors around and between other valuable habitats, or an area that forms a component part of a more complex landscape mosaic. In light of the current increase in woodland cover, new and recently developed woodland stands may provide important long-term opportunities for future woodland conservation in Essex.' (Para 4.2.9).

Habitat Criterion 2 (HC2) – Lowland Mixed Deciduous Woodland on Nonancient (sic) Sites

"All significant areas of non-ancient Lowland Mixed Deciduous Woodland will be eligible for selection".²

Guidance In judging the significance of such areas of woodland, consideration will be given to:

- *Its proximity (or otherwise) to an area of ancient wood;*
- *The presence of a recognisable layered structure comprising ground flora, sub-canopy (or scrub understorey) and high canopy;*
- *The presence of canopy and understorey dominated by native deciduous species;*
- *The presence of a diverse and typical woodland ground flora and/or notable woodland fauna populations;*

² Double quotation marks are repeated from the EWT LoWS document and are not this author's.

- *The abundance or lack of woodland habitat or any type within that part of the county.*

Where these qualities are in doubt, special consideration shall be given to woods that present opportunities for the development of public access, countryside education or research.

Where a wood that largely falls within the definition of this UK BAP Priority Habitat, but which includes stands of other woodland types (e.g. Elm stands or scrub), the whole wood will be eligible for inclusion within the LoWS system.

The EWT 2010 species criteria acknowledges that they will broadly follow the nationally agreed 'lists' such as the Wildlife & Countryside Act 1981; the Habitats and Species Directive; the National and Local Biodiversity Action Plans. But they also acknowledge that:

'Although these lists provide the foundation for assessing notable status, not all species on these lists will warrant specific protection within the LoWS network. Conversely, important species assemblages may occur that comprise a range of relatively common species, whose interest is linked to an unusual or uncommon assemblage, or simply exceptional diversity.' (Para 5.1.3), and;

'In keeping with the Defra guidelines, on 'substantive' (significant) populations of notable species or important assemblages of species will be considered for selection. However, what constitutes a significant population will vary between species, their individual rarity and population trends, both nationally and in the county.' (Para 5.1.4).

Species Criterion 7 (SC7) – Dormouse

"All sites confirmed as supporting populations of Dormouse will be eligible for selection. Sites should include all adjoining areas of suitable Dormouse habitat and important movement corridors (HC30)".

Species Criteria 19 (SC19) – Important invertebrate assemblages

"Significant populations of notable invertebrate species, and/or important invertebrate assemblages (i.e. unusual or uncommon assemblages, or exceptional diversity) will be eligible for selection. In deciding the significance of a species, reference should be made to any available Essex Red Data List, national Red Data Book or "Review".

6.2 LoWS Value/Designation In Relation to This Site.

After a number of surveys over several years, the Site has been shown to be of low ecological value, and hence cannot be of 'substantive nature conservation value'

using both the DEFRA and EWT definitions. It therefore falls at the first hurdle for LoWS designation. On further examination, this assessment is upheld as follows:

1. The site is scrub/woodland on a former railway embankment; it therefore must be secondary woodland. It has no clearly defined ground flora, mid- and upper canopy, but does have some medium and old trees, notably oaks in a few locations. It is likely that they are self-sown from other trees nearby. It has no significant woodland ground flora either in species composition or extent (even before the grassier areas were shaded out by lack of management, this feature was not present). Although it very broadly fits into the community of HC2 (the LoWS citation criterion HCr2c could not be located in their document but is assumed to be a sub-group of HC2), it is not a "*significant area(s) of non-ancient Lowland Mixed Deciduous Woodland*" (EWT 2010) as required under the EWT criterion for the reasons given above.
2. The other EWT LoWS citation habitat HCr13 is heathland/acid grassland of which there is none on this site.
3. As far as has been recorded, it holds no priority or significant species, or, now that the Badger(s) has gone, no protected species.
4. Although no invertebrate survey has been undertaken, the important macro-invertebrates for which the railway line south of Limebrook Way is noted, are unlikely to be present. They were not recorded when the EWT managed the site, and the quality of the habitat has declined since and it is therefore unlikely that they would now be using this area.
5. A Dormouse record has been logged for the railway line to the south. To the south, the wooded embankments continue for over 2km and are linked to the ancient woodland of Hazeleigh Wood. The continuity of the railway line was severed by the construction of the B1018 Limebrook Way which would have led to the isolation of any Dormouse colonies to the north, had they been present. Dormice are threatened in part because they have great difficulty in crossing even small canopy gaps and expanding their range. The Limebrook Way would be a significant obstacle and it is probable that either they were never present and will now not colonise, or that they became isolated and died out (given the history of this section it is likely that they were never present). Although the Dormouse criteria state that '*sites should include all adjoining areas of suitable Dormouse habitat and important movement corridors*' this small and isolated site cannot be considered part of the Dormouse railway habitat due to its severance from the southern part and the significant obstacle posed by the road.
6. Past reference to the site as a wildlife corridor also fails. It lies at the northern tip of a linear site, but is separated from it. It "leads" into an industrial estate and is surrounded by significant urban and industrial habitats. It therefore is not a

corridor linking different wildlife areas. Whilst a few of the more mobile species such as birds and invertebrates might cross these obstacles, there is no evidence that they do in any major numbers or rarity of species. The adjacent habitats, and especially the road, are a significant barrier to colonisation by other less mobile species. It is therefore not "additional habitat" to the southern area into which animals can spread, not a corridor or stepping stone as it leads nowhere.

7. The long period of low level management post construction of Limebrook Way in the 1980s, and finally no management, has allowed the site to deteriorate into an overgrown area of scrub and trees with little wildlife interest. Its interest was probably always lower than that to the south which is grassier and more diverse. It has historically been included with the larger area for geographical reasons rather than wildlife ones. It is therefore unlikely that, with the reinstatement of management, that this site could be turned in to a valuable wildlife area.

The EWT site citation (see appendix II) is acknowledged (EWT pers com) to be in relation to the whole railway line site. During site reviews no attempt has been made to resurvey this section, to identify the interest (or lack of it) for this northern tip. It has been included in the wider LoWS railway site area, with, apparently, no evaluation. Its small size, lack of management, and isolation reduce its potential further. It no longer functions as a buffer to the larger LoWS to the south and does not qualify on reasons of species or habitat diversity, corridor function or buffer area.

7 CONCLUSIONS

The survey results and additional information describe a poor site with low wildlife interest. It is not of substantive nature conservation value and probably never has been, and therefore does not meet the criteria for a Local Wildlife Site (LoWS).

It is only designated as a LoWS for its historical association with the larger and more diverse EWT nature reserve to the south. Any residual interest dating from before it was severed from the reserve in 1986, has fallen into further decline through lack of management. This period (1986) is probably when the Essex Wildlife Trust effectively ceased all but minor management, judging from the age of trees and scrub. This, together with its isolation and small size, strongly indicate that its potential to be returned to LoWS status is severely limited.

No objection was made in 1986 by either the EWT or English Nature (now Natural England), to the loss of part of the railway line nature reserve to make way for the bypass (Limebrook Way) which now forms the southern boundary of this Site, nor to the severing and isolation of this section. By implication, the EWT have stated the Site is not considered to be of wildlife value as they no longer wish it to be part of the nature reserve.

The long period of severance from the southern railway line area suggests that this northern tip should be considered as a separate entity and not evaluated with the more diverse main area to the south. It has poor diversity, is not of substantive nature conservation interest, and has long since ceased to be a wildlife corridor into Maldon. It is physically separated from the southern railway line and EWT nature reserve, and does not confer on or receive any benefits from it.

As it is not of substantive nature conservation interest (or significant biodiversity interest - MDC draft LDP), nor is it likely to become so if management was reinstated, MDC draft policies N1 and N2 do not apply. The reasoning behind it not being a corridor, and being physically separated from the southern LoWS site, are rehearsed above. As that is the case, these proposals will also '*not have a detrimental impact on sites of local ecological significance both in terms of quantity, quality and connectivity.*'

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APPENDIX I

Protected Species Status

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EUROPEAN PROTECTED SPECIES (EPS)

BATS, OTTERS, GREAT CRESTED NEWTS, OTTERS, DORMICE

The following is given for guidance only; it is not a legal definition or interpretation and clients are advised to seek legal opinion as to its contents and the law.

EPS are protected under the EC Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora (the Habitats and Species Directive). This legislation is enacted under the Conservation (Natural Habitats &c.) (Amendment) (England and Wales) Regulations 2010 (the 2010 Regulations).

Species listed under Annex II of the Habitats Directive are subject to special protection and special offences exist. Under this legislation some disturbance of EPS falls outside the 2010 Regulations, but could potentially fall within the disturbance offence found in the Wildlife and Countryside Act 1981 (WCA).

a) It is an offence to *'damage or destroy a breeding site or resting place of an EPS animal.'*

This offence exists even if the damage or destruction occurs accidentally. The offence is designed to 'safeguard the continued ecological functionality' of breeding sites and resting places, so such a place may be protected even if not in current use (eg if use is seasonal). Therefore a site or place used only occasionally for breeding or resting purposes is very likely to fall outside the offence. Early and detailed surveys are therefore necessary to determine the continued functionality and the degree of use of such a place. Mitigation which ensures the continued ecological functionality of a site or place would allow the offence to be avoided.

b) It is an offence to *'deliberately disturb wild animals of an EPS including in particular any disturbance which is likely to impair their ability to -*

i) *to survive, to breed or reproduce or to rear or nurture their young; or*

ii) *in the case of animals of a hibernating or migratory species, to hibernate or migrate.'*

c) Other EPS offences under the 2010 Regulations are:

i) deliberately capturing, killing or injuring an EPS animal;

ii) deliberately taking or destroying the eggs of an EPS animal;

iii) deliberately picking, cutting, uprooting or destroying an EPS wild plant.

iv) breach of a licence condition.

Where an offence under the 2010 Regulations is likely to be committed, the offence can be derogated by means of a licence. In order to obtain a licence the scheme has to pass three tests. These are:

- ▶ Regulation 53(2)(e) states that licences may be granted to *'preserve 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 53(9)(a) states that a licence may not be granted unless Natural England is satisfied *'that there is no satisfactory alternative'*.
- ▶ Regulation 53(3)(b) states that a licence cannot be issued unless Natural England is satisfied that the action proposed *'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'*.

There is a new offence of *'breach of a licence condition'*, greater powers of inspection and investigation; and higher penalties including custodial sentences.

If the 2010 Regulations offence is relevant then an EPS licence is required to avoid prosecution; whereas if (in a development context) the WCA offence is relevant no licence is required (or even available), but the client / ecologist has to ensure that he/ she is covered by one of the defences (see WCA v), vi), below).

Wildlife and Countryside Act - EPS offences under the Wildlife and Countryside Act:

- v) intentionally or recklessly obstructing access to places used by the listed species for shelter or protection; or
- vi) intentionally or recklessly damaging or destroying any structure or place which the listed species use for shelter or protection.

An offence under the WCA as described above, can occur to an EPS, but also other species listed in various schedules (notably schedules 1,5 and 8) of the Act.

Defences under the WCA only:

- vii) *'the offence occurred as the incidental result of an otherwise lawful activity, and could not reasonably have been avoided.'*
- viii) *'the species was in a dwelling house'*.

These defences would have to be rigorously justified and documented.

Bats

In addition to the EPS legislation described above, all UK bat species are protected under Section 9 Schedule 5 of the Wildlife and Countryside Act 1981 and amendments; they are protected under the Berne Convention, and are given migratory species protection under the Convention of Migratory Species of Wild Animals (known as the Bonn Convention 1980), including its Agreement on the Conservation of Bats in Europe (EUROBATS).

NATIONAL PROTECTION

Birds

All nesting birds are protected under Section 1(1)(b) of the Wildlife and Countryside Act (1981). It is an offence to intentionally take, damage or destroy the nest of any wild bird while that nest is in use or being built; or take or destroy an egg of any wild bird. As a consequence no clearance should be undertaken during the nesting season, unless works to make the habitats unsuitable are first undertaken, or a detailed examination before clearance starts declares the area free. The nesting season is generally taken to be between mid-March and mid-June, with an extension into August if second broods are present, but current warm seasons have extended this period to between February and September.

Birds of Conservation Concern

Red List species are those which are globally threatened according to IUCN criteria; those whose population or range has declined rapidly in recent years; and those that have declined historically and not shown a substantial recent recovery.

Inclusion on the BoCC lists or in the UK BAP does not confer any species statutory protection. However, the species concerned are all of conservation importance and therefore impacts may be significant particularly where large populations of such species are likely to be affected.

Evaluation Criteria

The ornithological importance of the site (and the various compartments within the site) was assessed by evaluating the species recorded against the following criteria:

International importance:

- Annex 1 of the EC Birds Directive (Directive 79/409/EEC)
- Annex 4 of the Habitats Directive

National importance:

- Schedule 1 of the Wildlife & Countryside Act 1981
- UK Biodiversity Action Plans
- Red and Amber Lists are based on population declines on a national level, but often their relevance is at a local level.

Badgers *Meles meles*

Badgers *Meles meles* are protected under the Wildlife and Countryside Act 1981 (and amendments) and given further protection under the 1992 Protection of Badgers Act, which protects not only the animal but also its sett. In 2000 the Countryside and Rights of Way (CROW) Act gave further enforcement to sett protection.

The following is based on Natural England document:-

BADGERS AND DEVELOPMENT - A Guide to Best Practice and Licensing. Interim Guidance document 09/07.

Badgers are not rare or uncommon, and The Protection of Badgers Act 1992 is based primarily on the need to protect badgers from baiting and deliberate harm or injury (animal welfare). They are not therefore a wildlife issue, except that they more easily fall alongside ecological surveys than other subjects.

All the following are criminal offences:

- to willfully kill, injure, take, possess or cruelly ill-treat a badger;
- to attempt to do so; or
- to intentionally or recklessly interfere with a sett.

Sett interference includes damaging or destroying a sett, obstructing access to a sett, and disturbing a badger whilst it is occupying a sett. It is not illegal, and therefore a licence is not required, to carry out disturbing activities in the vicinity of a sett if no badger is disturbed and the sett is not damaged or obstructed.

Since development operations may take place over a protracted period, Natural England recommends that plans consider the effect of the development on seasonally-used setts as well as currently occupied setts. If a sett has shown signs of occupation within the past few months, it could be in use by badgers when development starts and should therefore be taken into account during the survey and any planning stages of the development. Where interference with a sett showing signs of use cannot be avoided during the development, a licence should be sought from Natural England.

Work close to Badger setts is only normally permitted between July and November.

Penalties for offences can be severe with fines of up to £5,000 plus up to six months imprisonment, for each illegal sett interference, or badger death or injury. The legislation does, however, recognise the need for a range of legitimate activities to be carried out and allows licences to be granted for certain purposes permitting work that would otherwise be illegal. The purposes for which licences can be granted include:

- Preventing serious damage to land, crops, poultry or any other form of property (e.g. a house, garden, road etc.)
- Any agricultural or forestry operations
- Any operation to maintain or improve any existing watercourse or drainage works, or to construct new works required for the drainage of land, including works of defence against sea or tidal water
- Development
- Preservation of ancient monuments or an archaeological investigation

The licensing authority in England is Natural England.

APPENDIX II

LoWS Site Citation

Species Records

Photographs

Habitat Map

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Local Wildlife Site Citation

A length of railway line to the south of the B1018 Limebrook Way is managed by the Essex Wildlife Trust, as Maldon Wick Nature Reserve. It is a local site of importance, called a Site of Interest for Nature Conservation (SINC), now called Local Wildlife Site or LoWS. LoWS are protected under Local Plan policies, and this site is listed as M3 Maldon Wick Nature Reserve in the Adopted Maldon Local Plan (2005). The Local Plan LoWS includes the Site, north of the railway line, although it is no longer part of the nature reserve.

In 2003 the reserve was described as follows:

The main interest of Maldon Wick Nature Reserve is its butterflies. Twenty-eight species have been recorded from the site, including Purple and Green Hairstreaks, the White-letter hairstreak, and Ringlet. The Green hairstreak *Callophrys rubi* is a widespread and common species of hedgerows, and woodland margins, and it feeds on Gorse, Bramble and Buckthorn *Rhamnus* spp. the Purple hairstreak *Quercusia quercus* is similarly widespread but is associated with Oak (*Quercus* spp.,) woodland, as can be deduced from its scientific name. White-letter Hairstreaks *Stymonidia w-album* are southern species of woodland margins and rides. The Ringlet *Aphantopus hyperanthus* is a common species of damp meadows, hedgerows and woodland margins, and feeds on various common species of grass. In addition to the invertebrate interest there is a variety of plants including Primroses *Primula vulgaris*, Moschatel *Adoxa moschatellina*, and Spindle *Euonymus europaeus* (Essex Wildlife Trust pers com).

In 2007 a resurvey and review of the Maldon area SINC³ was conducted by Essex Ecological Services Ltd (EECOS), part of the Essex Wildlife Trust, to update the above information and to compare it with new LoWS (SINC) criteria. These criteria were developed in conjunction with Natural England and are compatible with other boroughs in Essex.

In the 2007 review an amendment was made to the reserve being:

M3 Maldon Wick EWT Reserve TL 842057; Maldon Wick Meadow added.

The 2007 review mapped the railway line including the area north of Limebrook Way, along with the meadow addition and described it as:

Ma35 Maldon Wick (7.7 ha) TL 842057

This site is an Essex Wildlife Trust nature reserve⁴ and an important corridor consisting of a mosaic of woodland, scrub, grassland and a large pond. The site is composed of two and a half kilometres of abandoned railway line, now woodland and scrub, together

³ EECOS 2007. Maldon Nature Conservation Study

⁴ In fact the land to the north of Limebrook Way is no longer part of the nature reserve.

with the adjacent Maldon Wick Meadow, grassland with a large pond and scattered Silver Birch (*Betula pendula*).

The flora of Maldon Wick includes Sweet Violet (*Viola odorata*), Primrose (*Primula vulgaris*) and Moschatel (*Adoxa moschatellina*) and the reserve is of particular value for its butterfly populations, including Purple and White-letter Hairstreaks. Nightingales, Bullfinch and Turtle Dove all breed on the reserve and Dormouse has been recorded.

The grassland of Maldon Wick Meadow supports a range of common plants including Birds-foot Trefoil (*Lotus corniculatus*), Common Vetch (*Vicia sativa*) and Oxeye Daisy (*Leucanthemum vulgare*). The pond has large stands of Bulrush (*Typha latifolia*) and an abundance of Common Water Crowfoot (*Ranunculus aquatilis*) as well as an invasion of Floating Pennywort (*Hydrocotyle ranunculoides*).

Selection Criteria: HCr2c, HCr13

UK BAP Priority Habitats: None

SPECIES RECORDS**Bat records within 2km of the site.**

<u>Grid ref.</u>	<u>Date</u>	<u>Record</u>
TL846063	03 Apr 1998	Common Pipistrelle recorded foraging
TL845064	23 Jun 1993	Pipistrelle roost in house
TL846065	16 Aug 1999	Brown long-eared bat found by member of public
TL845072	11 Sep 1996	Common Pipistrelle recorded foraging
TL837038	19 Oct 1995	Brown long-eared bat roost in house
TL844064	06 Jul 1990	Pipistrelle roost in house
TL852068	11 Jul 1989	Pipistrelle found by member of public
TL849070	13 Jun 2008	Brown long-eared bat found by member of public
TL823072	03 Apr 1995	Pipistrelle found by member of public
TL822038	08 May 2012	Common Pipistrelle recorded foraging
TL851073	19 Sep 1993	Pipistrelle recorded foraging
TL839055	12 Sep 2009	Brown long-eared bat roost in house
TL852059	20 Jun 1986	Pipistrelle roost in house
TL845072	11 Sep 1995	Pipistrelle found by member of public
TL845072	21 Sep 1995	Brown long-eared bat found by member of public

Dormouse records within 5km of the site.

<u>Grid ref:</u>	<u>Date</u>	<u>Record</u>
TL788058	08 Aug 1995	Hazel Dormouse
TL789061	08 Aug 1995	Hazel Dormouse
TL789070	10 Oct 1995	Hazel Dormouse
TL792018	10 Oct 1995	Hazel Dormouse
TL794064	10 Oct 2004	Hazel Dormouse
TL787067	17 Oct 1998	Hazel Dormouse
TL788061	23 Sep 2002	Hazel Dormouse
TL788058	11 Sep 2004	Hazel Dormouse
TL792065	11 Sep 2004	Hazel Dormouse
TL787063	11 Sep 1998	Hazel Dormouse
TL790017	11 Sep 2002	Hazel Dormouse

All the records refer to animals from the group of woodlands at Danbury and Bicknacre

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PHOTOGRAPHS



Eastern boundary footpath - Site to left, housing to right.



2009 - unofficial footpath along spine, with narrow grassy margins, shaded.

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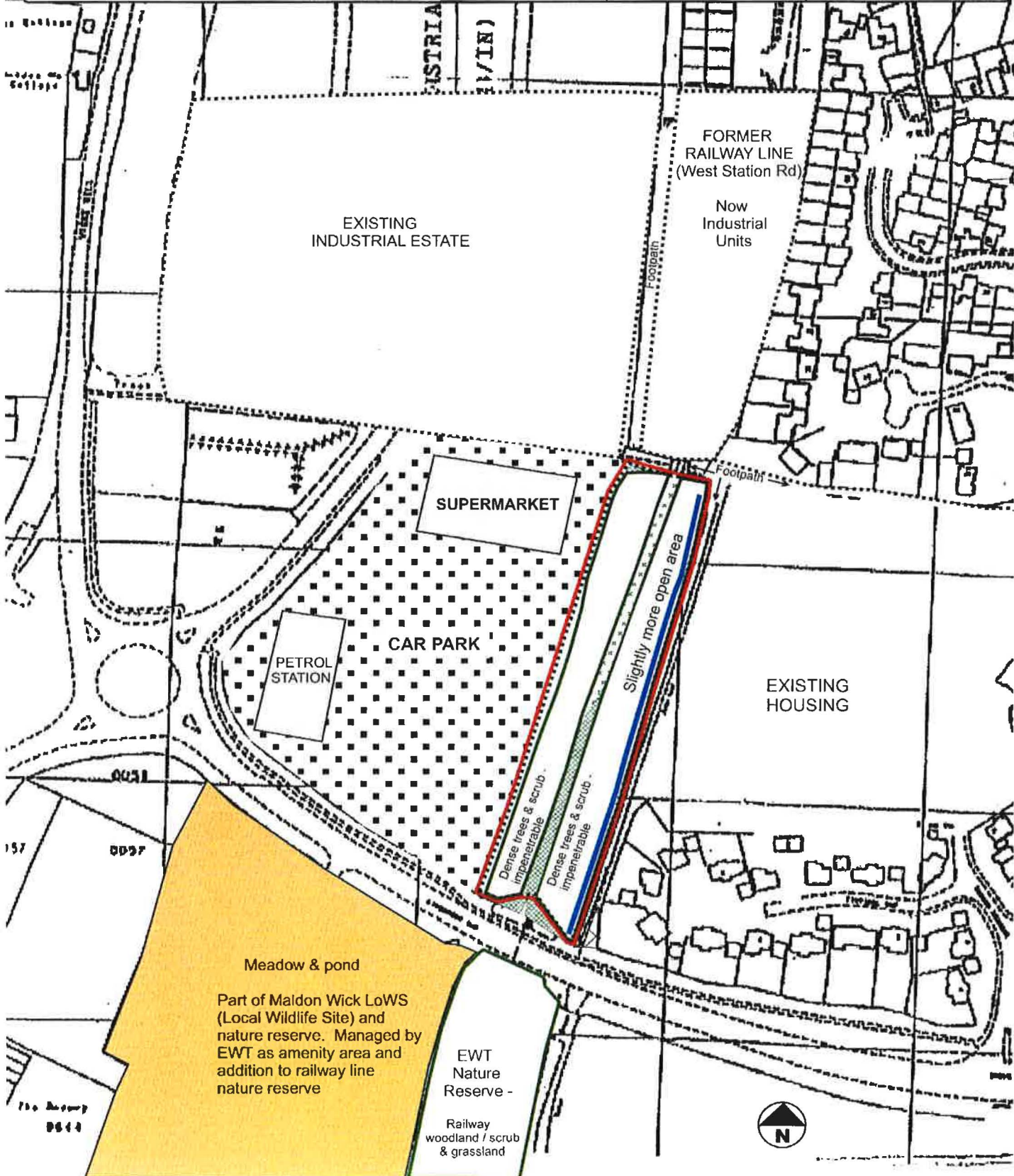
2012 - Former footpath at northern end (similar location as 2009 photograph) weedy and becoming shaded.












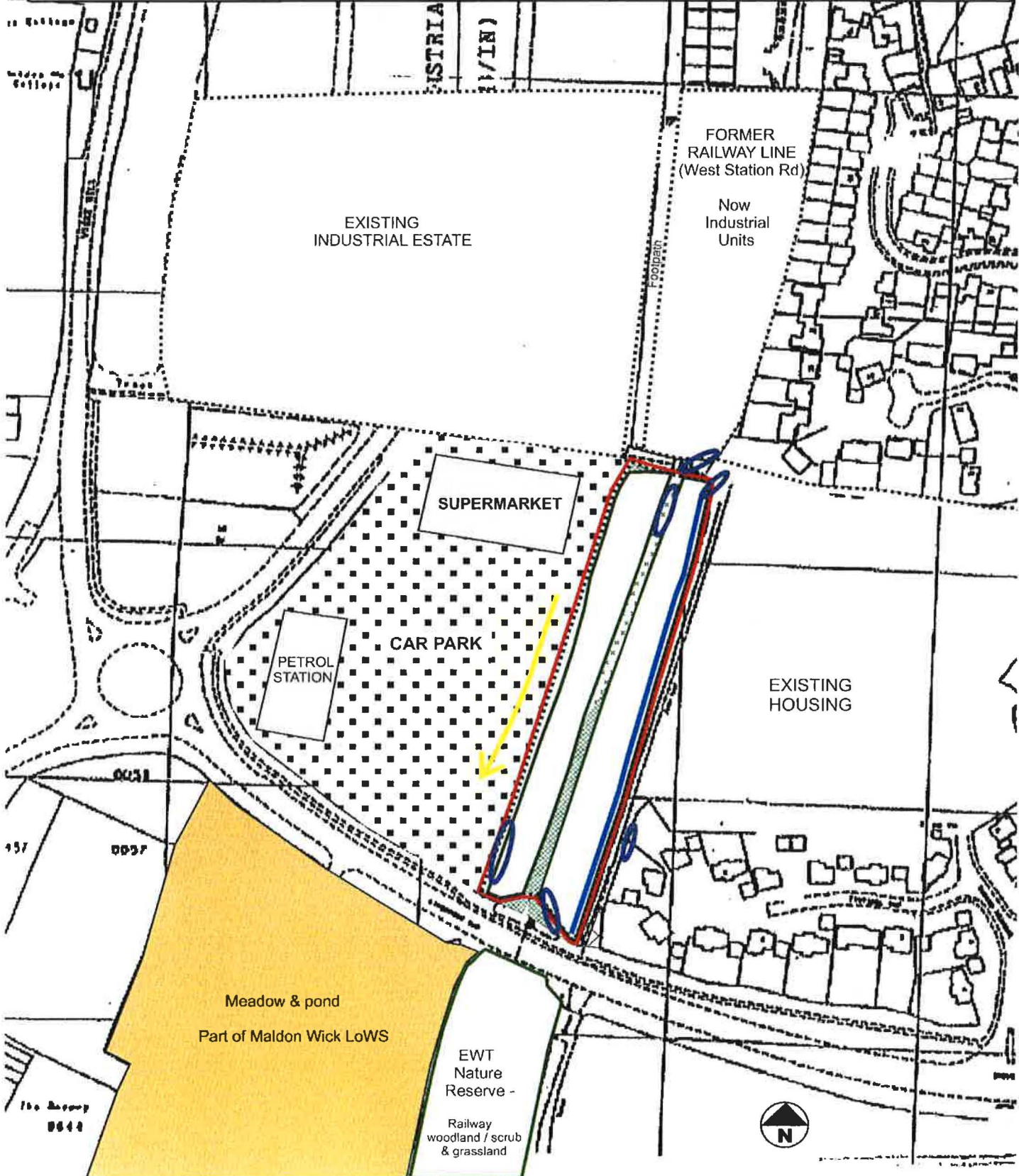
2012 - Former footpath towards southern end - impenetrable.

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	Project: DISUSED RAILWAY ADJACENT MORRISON'S CAR PARK MALDON, ESSEX	Drawing: 723/4/1 HABITAT MAP
	Client: Maldon Wick Ltd	 22 Heath Road, Swaffham Bulbeck, Cambridge CB25 0LS Tel/fax: 01223 811190 e-mail: jgreen@greeneecology.co.uk
	Scale: see grid Drawn by: JG Date: 08.08.2012 Rev1:	



 Tree Belt Woodland / scrub  Scrub - continuous  Scrub - scattered  Ditch  Bare Ground (hard-standing)  Fence	 Noctule Bat Commuting  Common Pipistrelle Foraging	Project DISUSED RAILWAY ADJACENT MORRISON'S CAR PARK MALDON, ESSEX	Drawing: 723/4/2 BAT ACTIVITY MAP
		Client: Maldon Wick Ltd	
		Scale: see grid Drawn by: JG Date: 10.08.2012 Rev1:	22 Heath Road, Swaffham Bulbeck, Cambridge CB25 0LS Tel/fax: 01223 611190 e-mail: jgreen@greenecology.co.uk





Planning Policy
Maldon District Council
Princes Road
Maldon
Essex
CM9 5DL

Date 29th August 2012

Sent by post and email (policy@maldon.gov.uk)

Dear Sir/ Madam

Maldon District Council: Local Development Plan Preferred Options Consultation (July 2012) - Representations on Policy N2 Sites of Local Ecological Importance on behalf of Maldon Wick Ltd

We write on behalf of our client, Maldon Wick Ltd (MW), in respect of the above.

Maldon Wick Ltd own and manage a 0.75 hectare site on the former Maldon - Woodham Ferrers railway line as identified on the attached Site Plan. The site is bounded to the north by West Station Road, Morrisons Supermarket to the west, Limebrook Way to the south and residential to the east. The site is identified as M3 on the Maldon Replacement Local Plan Proposals Map, and is also designated as a Local Wildlife Site (LoWS).

We have reviewed the MDC Preferred Options Consultation document and the evidence base documents, in particular the Maldon District Green Infrastructure Study (2011). We note under Chapter 6 Natural and Semi natural greenspaces - Quality (page 70) MDC reported that '*it considered that an overall qualitative assessment is both inappropriate and impractical or the purpose of the Study given the wide ranging types of sites, difference in their function and character, uncertainty of ownership and accessibility and staff resources. Nonetheless, most site have been visited by Council officers where possible. Others have been assessed/ monitored by respective organisations who manage the site and through other relevant sources, such as the draft Maldon Natural Conservation Study (ECCOS 2007)*'. On this basis, it is unclear from the LDP evidence documents when the site was last evaluated in terms of its known local ecological importance in order to warrant its nature reserve and local wildlife site status.

Since 2009, three ecological appraisals have been undertaken of our client's site by Green Environmental Consultants (GEC) to review both the habitat and biodiversity species value of the site. The latest GEC ecological appraisal dated (August 2012) reviews previous site surveys undertaken using them as baseline data. A copy of the appraisal is attached.

GEC conclude :

- the Maldon Wick site as a poor site with low wildlife interest. It is not of substantive nature conservation value and probably never has been, and therefore does not meet the criteria for a Local Wildlife Site (Section 7, para1, page 21).
- LoWS designation of this small site is due to the historical association with the larger and more diverse EWT nature reserve to the south of Limebrook Way. In comparison with the remainder of the Maldon Wick nature reserve to the south, and due to a combination of physical and management factors, the northern part of the site is of low biodiversity interest, not of substantive nature conservation interest and has ceased to be a wildlife corridor (Section 7, paras 2 and 5, page 21).

Accordingly, we would recommend the site be removed from the M3 Maldon Wick Nature Reserve designation together with its associated Local Wildlife Site designation, to ensure that Policy N2 and its reasoned justification at 6.2.4 are not diluted by reference to inappropriately identified sites.

Yours faithfully

Duncan Ward
Cubism Law

Copy



Planning Policy
Maldon District Council
Princes Road
Maldon
Essex
CM9 5DL

Date 14 October 2013

Sent by post and email policy@maldon.gov.uk

Dear Sir/ Madam

**Maldon District Draft Local Development Plan 2014-2029 Consultation
Representations on Policy N2 Natural Environment and Biodiversity on behalf of Maldon
Wick Ltd**

We write on behalf of our client, Maldon Wick Ltd in response of the above.

Maldon Wick Ltd own and manage a 0.75 hectare site on the former Maldon – Woodham Ferrers railways line as identified on the attached Site Plan. The site is bounded to the north by West Station Road, Morrison’s Supermarket to the west, Limebrook Way to the south and residential to the east. The site lies within the northern part of the Maldon Wick EWT Reserve (which continues southwards for 1.5 miles) Way and is severed from that corridor by Limebrook Way.

Representations we previously submitted to the Local Development Plan Preferred Options Consultation in August 2012.

We have reviewed the Maldon District Draft Local Development Plan Consultation document and the evidence base documents and found these to remain unchanged following the previous consultation in August 2012. We have also reviewed Essex Biodiversity Action Plan (Essex Biodiversity Project 2011) and their web link to Essex Local Wildlife Sites. However, we do note that our client’s site is now identified as Ma35 on the draft Local Development Plan Proposals Map, as part of the proposed Local Wildlife Site (LoWS) designation

On the basis, our client’s site remains proposed within the Maldon Wick Nature Reserve designation in the knowledge here has been no change to the evidence base following the last consultation. We therefore reattach our original representation (dated 24 August 2012), setting our justification for the site removal from the designation and ask that this is now considered by your Council when preparing the LDP.

Yours faithfully

5680953v1



Duncan Ward
Cubism Law

Enc

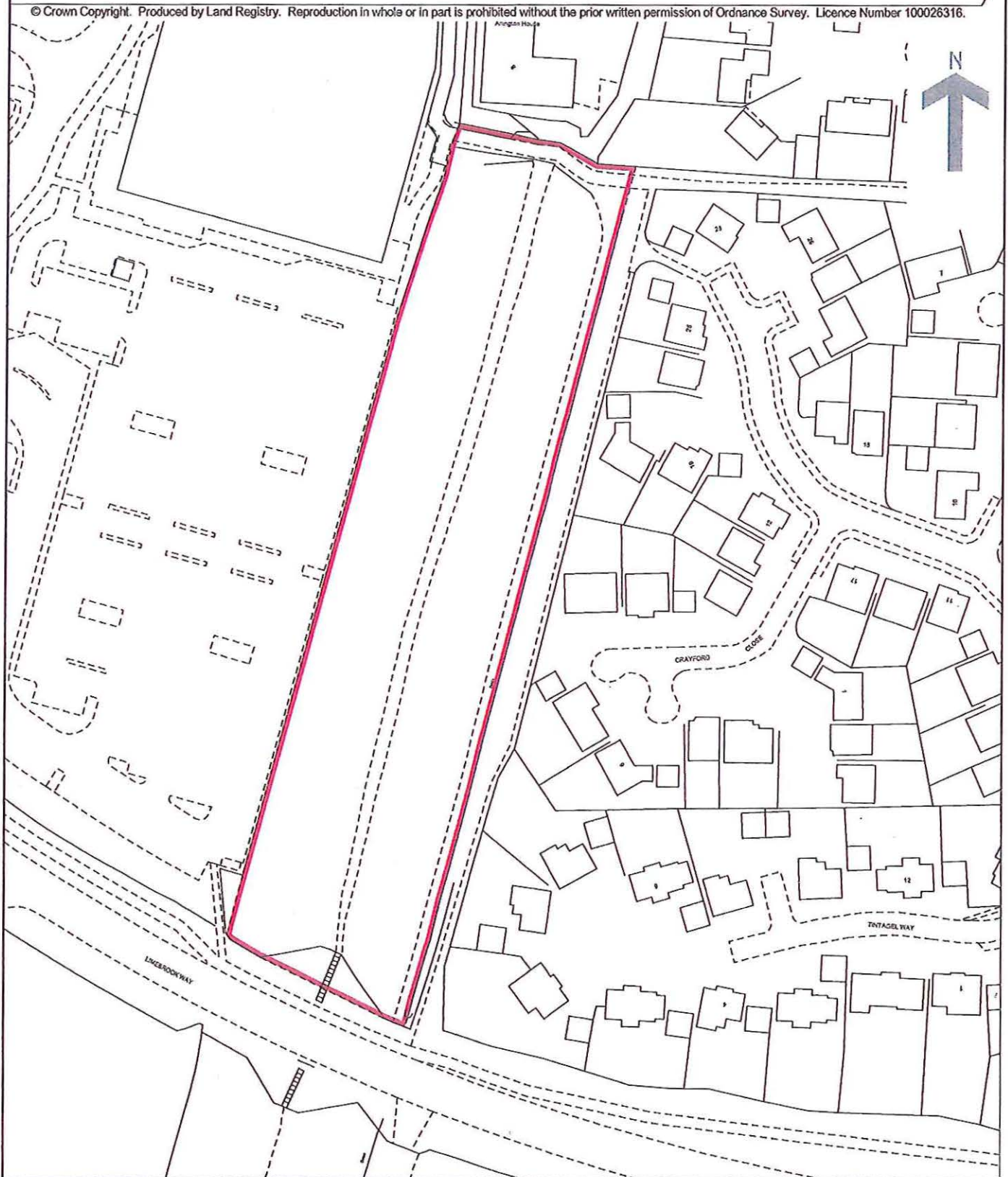
Maldon Wick Ltd Representation dated 24 August 2012 inc Site Plan
Green Environmental Appraisal, August 2012

Land Registry
Official copy of
title plan

Title number **EX837660**
Ordnance Survey map reference **TL8405NW**
Scale **1:1250** enlarged from 1:2500
Administrative area **Essex: Maldon**



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This official copy issued on 14 July 2009 shows the state of this title plan on 14 July 2009 at 08:44:03. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).

This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title Plans and Boundaries.

This title is dealt with by Land Registry, Peterborough Office.

**DISUSED RAILWAY LINE
ADJACENT TO MORRISON'S SUPERMARKET
NORTH OF LIMEBROOK WAY
MALDON
ESSEX**

ECOLOGICAL APPRAISAL

August 2012

Report for
Maldon Wick Ltd



Green Environmental Consultants

Green Environmental Consultants Limited
22 Heath Road, Swaffham Bulbeck, Cambridge, CB25 0LS

Tel/fax: 01223 811190

e-mail: jgreen@greenecology.co.uk

Document number: 723/4

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**DISUSED RAILWAY LINE, ADJACENT TO MORRISON'S SUPERMARKET, NORTH OF LIMEBROOK WAY,
MALDON, ESSEX
ECOLOGICAL APPRAISAL**

CONTENTS

0	EXECUTIVE SUMMARY.....	1
1	INTRODUCTION AND OBJECTIVES.....	3
2	SURVEY METHODOLOGY	
	2.1 Data Search.....	3
	2.2 Habitat Survey.....	4
	2.3 Scoping for Protected and Biodiversity Species.....	4
	2.4 Bat Survey.....	4
	2.5 Dormouse Survey.....	5
	2.6 Badger Survey.....	5
3	SURVEY RESULTS	
	3.1 Data Search.....	6
	3.2 Habitat Survey.....	7
	3.3 Bat Survey.....	8
	3.4 Dormouse Survey.....	9
	3.5 Badger Survey.....	9
	3.6 Biodiversity Species.....	9
	3.7 Invasive Species.....	10
4	LEGISLATION & PLANNING	
	4.1 Legislation.....	10
	4.2 Planning.....	11
5	SITE EVALUATION.....	13
6	LOCAL WILDLIFE SITE STATUS	
	6.1 LoWS Definition.....	15
	6.2 LoWS in Relation to This Site.....	20
7	CONCLUSIONS.....	21
8	BIBLIOGRAPHY.....	22
	APPENDIX I	
	Protected Species Status.....	25
	APPENDIX II	
	EWT Local Wildlife Site Description.....	31
	Species Records.....	33
	Photographs.....	35
	Drawing 723/4/1 Habitat Map.....	39
	Drawing 723/4/2 Bat Activity Map.....	41

Limitations of Surveys and Report

This report records wildlife found during the survey and anecdotal evidence of some species. Access, seasonality and weather conditions may affect survey results. It does not record any animals or plants that may appear at other times of the year and were therefore not evident at the time(s) of the visit(s). Habitats outside the site boundary were only visited where considered appropriate and where access was available.

The behaviour of animals can be unpredictable and may not conform to standard patterns recorded in current scientific literature. Many species such as bats are highly mobile and can occupy a site which has previously held no potential for them and factors such as increasing habitat pressure can cause animals to occupy areas that were previously unoccupied, or which might be considered far from suitable. This report therefore cannot predict with absolute

This report takes into account the particular instructions and requirements of our client. It is not intended for and should not be relied upon by any third party and no responsibility is undertaken to any third party.

This report has been completed in accordance with IEEM good practice guidelines.

Jacqui Green

0 SUMMARY

A section of the former Maldon-Woodham Ferraers railway line located to the north of Limebrook Way, and east of Morrison's supermarket, Maldon, has been surveyed over a number of years to record protected and biodiversity species and to evaluate its wildlife status.

Description and Results

The Site is small (approximately 0.75 ha), aligned north-south, with the bypass, B1018 Limebrook Way, forming the southern boundary. Segments of the former railway line to the north has already been developed; the surrounding land is also developed for a range of land uses. This small area is the remaining section of railway line between the built area of Maldon and the Limebrook Way. A longer section of the disused railway line lies to the south of Limebrook Way which is identified as an Essex Wildlife Trust nature reserve, and a Local Wildlife Site (LoWS). For historical reasons the northern section which is the subject of this report, is included within the LoWS.

The course of the former railway line is on an embankment raised above the surrounding land and has development (industrial units, supermarket, housing) on three sides, and a road, Limebrook Way, on the fourth. Due to minimal management over many years, the Site has become very overgrown with trees and dense scrub shading out ground flora. An informal path (now closed) along the spine formerly kept a small strip of grassland open, but this is now also shaded and mostly lost.

Most of the trees are semi-mature but there is a small number of older and larger trees on the Site. The dense scrub has shaded out all but the most resilient ground flora such as Ivy and Brambles, and as a whole the Site is likely to be unattractive to most fauna.

Protected species surveys found only foraging pipistrelle bats with no evidence of roosting, and a former Badger outlier hole is now abandoned. A Dormouse survey found no evidence of this protected species. The high density of mid-canopy and poor upper canopy which is lit at night from adjacent land including the supermarket and footpaths, indicates poor habitat for the invertebrates for which the LoWS south of the road is known. This high density structure is also becoming poorer for nesting birds. Its lower former interest (when compared to the railway line south of Limebrook Way) and the long period with little or no management strongly suggest that it is unlikely to be returned to anything other than of Local interest as much of the species and habitats are not present or exist in poor quality (eg grassland).

The presence of mature broad-leaved trees provides some ecological interest but their main function is in landscaping terms.

As a result this area is considered to be of low ecological value.

Conclusions and Discussion

An analysis of national and Essex Wildlife Sites Criteria is provided. Using these criteria,

it is concluded that, as the site is of low ecological value it cannot be of substantive nature conservation interest, which is required to reach the status of Local Wildlife Site (LoWS).

This site was included within the original LoWS to act as a buffer at its northern end and to extend the wildlife corridor to the better area to the south. It is argued here that the severance of this site from the main area by construction of the Limebrook Way road in 1986, has acted as a significant barrier to its colonisation by sensitive species of low mobility, and the further degradation of habitat means that its former low quality habitat has deteriorated even further, thus being of low attraction to the more mobile species such as specialist invertebrates.

The Site no longer acts as a wildlife corridor as all the surrounding land is developed and therefore leads nowhere; it is also not a buffer to the better area to the south as the Limebrook Way is a clear severance feature.

It is on this basis that the inclusion of this Site within the overall LoWS is considered to be spurious and not warranted by its low ecological value.

1 INTRODUCTION & OBJECTIVES

The disused Maldon to Woodham Ferrers railway line runs from south of Limebrook Way where it is part of an Essex Wildlife Trust nature reserve, more or less northwards in to the more developed part of Maldon. The large majority of the railway line north of Limebrook Way has already been developed. Part of the former railway line, in an area known as 'West Station Road', was the subject of an ecological survey and assessment prepared by Green Environmental Consultants in 2003 and has subsequently been built on. The Site described in this report relates to land that is immediately south of West Station Road, north of Limebrook Way, and east of Morrison's supermarket and car park; as the supermarket is the closest and most obvious feature in this area, this section of former railway line is described as "adjacent to Morrison's" to differentiate it from other sections (see drawing 723/4/1 habitat map on page 39 for these features).

Within the adopted Local Plan, the subject site is identified as falling within site allocation M3 Maldon Wick EWT reserve. The reserve straddles Limebrook Way for 2.4 kilometres. The subject site ('the Site') measures 0.75 hectares. In October 2009 Green Environmental Consultants were appointed to undertake a site appraisal: this included an extended Phase One habitat survey, and scoping for protected and biodiversity species. In February 2010 the Site was again visited, accompanied by an arboriculturalist, when some species surveys were also undertaken. As wildlife surveys have a short shelf-life, the opportunity has been taken in 2012 to undertake the appraisal again plus species surveys, and to revisit conclusions drawn about the status of the site, which might have changed in the intervening two years.

This report draws together observations made between 2009 and 2012. This report is written by Jacqui Green BSc(Hons), MSc, CEnv, FIEEM who has in excess of thirty-five years experience of conducting wildlife surveys. Binomial scientific names are given after the first mention of a species only; plant names follow the Botanical Society of the British Isles nomenclature.

Objectives

- To up-date the extended Phase 1 habitat survey; and
- to undertake a scoping for protected or biodiversity species; and
- to survey for bats, Dormice and Badgers; and
- to assess the site in relation to the Local Wildlife Sites criteria.

2 SURVEY METHODOLOGY

2.1 Data Search

A data search was undertaken from EECOS the consultancy arm of the Essex Wildlife Trust who hold extensive records for Essex, and who, as an arm of the Wildlife Trust, have

information about the Local Wildlife Sites (LoWS). Additional species searches were made from the Essex Field Club.

2.2 Habitat Survey

A Phase 1 habitat survey of the site was conducted according to a methodology devised by the Nature Conservancy Council (revised JNCC 2010). Observations of unusual flora or faunal activity were made as per extended Phase 1 survey methods.

Species were recorded according to the DAFOR scale. DAFOR is a way of recording cover abundance of species, it is an acronym and stands for:

D = Dominant; A = Abundant; F = Frequent; O = Occasional; R = Rare.

When prefixed by an 'L' this is short-hand for Locally (Frequent, Abundant etc); co-D stands for co-dominant. When used in this context 'rare' does not mean a plant is nationally rare or even unusual, it refers to the small number of plants or its low cover recorded in that particular area only.

The original survey was undertaken by Jacqui Green BSc(Hons), MSc, CEnv, FIEEM on 29 September 2009, updated on 16 January 2010, and completely revised and up-dated on 23 May 2012 when the weather was clear and bright.

Survey Limitations

In 2012 the density of scrub and Brambles made it impossible to penetrate far in to the site from the northern end; the southern end is now completely impassable. When areas could not be accessed, they were seen from the outside the Site boundaries through mesh fencing.

2.3 Scoping for Protected & Biodiversity Species

Information from the habitat survey was used to scope (look for indicative habitats, niches or other signs) for protected or biodiversity action plan habitats and species (H & SBAP), which may require more detailed survey. Adjacent land was included in this scoping to assess if any protected species might be present on land nearby. Maps and aerial photographs were also used to identify features which might be hidden by vegetation or fencing.

The scoping and results from previous surveys identified a few potential species requiring surveys: Badgers and bats primarily. As a record of a nut eaten by a Dormouse has been recorded from the nature reserve south of the Site, the possibility of Dormice in this area was also considered. The habitat is far from ideal for Dormice, and none have been reported from the period when it was included as part of the nature reserve. As a precautionary principle a Dormouse survey was included in this assessment.

2.4 Bat Survey

Bat surveys have been undertaken by John Dobson, a bat worker and trainer licensed

by Natural England (Licence No. 20120353), and author of *The Mammals of Essex*.

In 2009 a survey of trees was undertaken to identify potential bat roosts. This was carried out on 11 November 2009. Trees were examined for loose bark, holes and crevices that could potentially be used by roosting bats. Trees were identified as being of low, medium or high potential.

In 2010 and 2012 activity surveys were also undertaken as follows:

At the start of the survey, the surveyor was located at the NE corner of the site, at the junction of three public footpaths. From here, bat activity from the east south and west could be observed. After twenty minutes (when the first bat had been recorded), two circuits of the site were monitored for bat activity. The survey continued until seventy-five minutes after sunset.

Bat activity was recorded using a BatBox Duet frequency division bat detector connected to a Sony Minidisk recorder. Recordings were later analysed using 'Bat Sound' sound analysis software.

The weather conditions for the 2012 survey were as follows:

Date	Sunset Time	Temperature	Weather	Cloud cover
28 th May	21.02	21°C	mild and still	50% high cloud

2.5 Dormouse Survey

John Dobson, a bat worker and trainer licensed by Natural England (Licence No. 20120353), experienced Dormouse surveyor and author of *The Mammals of Essex*, carried out the survey on 23rd May, 20th June, 13th July and 9th August 2012.

Dormouse tubes were fixed to the underside of branches at a variety of heights and at least 20m apart. The tubes are composed of a plastic nest tube and wooden tray with dimensions of 65mm x 65mm x 250mm. The tubes were set in May, and inspected by looking along the tube on 20th June, 13th July and 9th August 2012 to examine for evidence of nesting material, droppings or other features.

Survey Limitations

The southern end of the site is completely impenetrable and so the tubes were placed in a variety of locations in the northern half only.

2.6 Badger Survey

A Badger survey was conducted on 16 January 2010, and repeated on 23 May 2012, by Jacqui Green BSc(Hons), MSc, CEnv, FIEEM who has over 35 years experience of undertaking Badger surveys.

Badgers can be located by searching for signs of activity such as holes, latrines, paths, bedding etc. Paths are often the first thing seen, and in such cases, are followed to try to find other evidence such as setts or latrines. In some cases they cannot be followed into, for example, dense scrub, or where they move onto neighbouring land for which access is not available.

Mammal paths are often used by a number of species such as Rabbits *Oryctolagus cuniculus* and Foxes *Vulpes vulpes*. In these instances other signs were investigated, for example, where mammal paths cross boundaries such as fences these can be examined for hairs which might be caught on wire thus showing which animal had passed along that path, or prints which may be left in muddy patches.

Survey Limitations

The southern end of the site is completely impenetrable. However, in addition to the search of the Site at the northern end, the complete exterior of the site was walked searching for evidence of animals leaving or entering the area across /under boundary fencing.

3 SURVEY RESULTS

3.1 Data Search

Detail is provided in appendix II.

The main interest of Maldon Wick Nature Reserve is its butterflies. Twenty-eight species have been recorded from the site, including Purple and Green Hairstreaks, the White-letter hairstreak, and Ringlet. In addition to the invertebrate interest there is a variety of plants including Primroses *Primula vulgaris*, Moschatel *Adoxa moschatellina*, and Spindle *Euonymus europaeus*. Nightingales, Bullfinch and Turtle Dove all breed on the reserve and Dormouse has been recorded (EWT SINC citation).

In 2007 a resurvey and review of the Maldon area SINC (EECOS 2007) was conducted by Essex Ecological Services Ltd (EECOS), part of the Essex Wildlife Trust, when an amendment was made to the reserve being the addition of Maldon Wick Meadow (site M3 at TL 842057). This 2007 review mapped the railway line including the area north of Limebrook Way, along with the meadow addition and described it as follows:

Ma35 Maldon Wick (7.7 ha) TL 842057

This site is an Essex Wildlife Trust nature reserve¹ and an important corridor consisting of a mosaic of woodland, scrub, grassland and a large pond. The site is composed of two and a half kilometres of abandoned railway line, now woodland and scrub, together

¹ In fact the land to the north of Limebrook Way is no longer part of the nature reserve.

with the adjacent Maldon Wick Meadow, grassland with a large pond and scattered Silver Birch (*Betula pendula*).

Since the early 1980s, the Essex Bat Group has monitored the status and distribution of bats in this area. Records occurring within a 2km radius of the site are given in appendix II.

A review of existing records of the Hazel Dormouse in the area are also in appendix II. All the records refer to animals from the group of woodlands at Danbury and Bicknacre.

3.2 Habitat Survey

Habitats and features mentioned below are shown on drawing 723/4/1 and photographs in appendix II.

The former Maldon to Woodham Ferrers railway line north of Limebrook Way is aligned north-south. This section of land, subject of this report, is small in area, being barely 150m long by less than 50m wide (approximately 0.75 ha). The West Station Road area to the north has already been developed with small industrial units; the surrounding land is also developed for a range of land uses including industry, housing and retail. This small site is the remaining section of railway line between the developed area to the north, and the B1018 Limebrook Way to the south. To the south is the road, to the north is a public footpath and cycleway as well as industrial units; to the east is a public footpath running between the Site and housing, whilst to the west is a supermarket and associated car park.

In 2009 the site was described thus:

The high banks of the former railway embankment are dominated by dense, tall, scrub which shades out most ground flora. It is dominated by leggy, unmanaged Hawthorn *Crataegus monogyna* with Pedunculate Oak *Quercus robur* trees, and Ash *Fraxinus excelsior* colonising. Although the main habitat in percentage terms is dense scrub, over-topping trees are present and, in keeping with the arboricultural survey, this area is mapped as woodland /tree belt. The density of shade means that little ground flora exists but where present Ivy *Hedera helix* dominates, with Bramble *Rubus fruticosus* on the edges. On the more open upper slopes a little Honeysuckle *Lonicera periclymenum* is present.

The western boundary with the supermarket car park is more open but is beginning to colonise with scrub, and in places trees and ornamental species are present by the fence. It is likely that the ornamental shrubs etc have seeded from garden and other rubbish dumped over the fence from the car park, which is frequent in places.

On the eastern side is a footpath and also a ditch which was recorded as dry in 2009 and which had very recently been cleared out. At either end of the embankment (north and south) are steps and to the south they are surrounded by tall ruderal vegetation dominated by Briar *Rosa* sp and Goat Willow *Salix caprea*, with small Ash

also present. It is probable that the Briar and willow were planted along the road bank as they do not occur in any frequency within the main area of the Site. A fence appears to mark the boundary between the Site and the highway, in which case the ruderal and willow scrub vegetation is not within the Site.

The main point of potential interest is the former path along the spine. Although worn to compacted bare soil some grassland does survive in narrow strips on either side of the path. Although poor, it is possible that forbs such as Common Knapweed *Centaurea nigra* would be found in a Spring survey, although seed heads of plants indicating greater diversity were not present as would have been expected in September.

2010 update:

In 2010 the land was more overgrown with greater scrub density under and by the trees; the path was already becoming overgrown in places. It was noted that the ditch carried more water than previously.

2012 survey:

A resurvey in 2012 found the Site to be fenced and left unmanaged (although management was always rather poor). The southern half of the site is completely impenetrable and the tall ruderal vegetation previously mapped at the southern end gateway have been replaced by scrub. This applies equally to the path along the top of the embankment (former railway line), and the former strip along the western boundary, both of which have naturally been seeded by scrub plants and quickly becomes impenetrable. Where the scrub on the lower banks is of longer establishment, especially on the eastern side, the ground flora is virtually non-existent and so it is possible to find a route to the ditch by dodging branches and Brambles.

There was no evidence of grassland except in very small patches at the northern tip of the site where there is still a small open area just inside a gateway. The canopy is dense and very little light reaches the ground, with resulting equally poor ground flora. Where it does survive it is dominated by Ivy *Hedera helix*, with Bramble *Rubus fruticosus*, and in places, some Cock's-foot *Dactylis glomerata*, Sterile Brome *Bromus sterilis*, Wood Avens *Geum urbanum*, with Creeping Bent *Agrostis stolonifera*, and a little False Wood-brome *Brachypodium sylvaticum* present.

The ditch had a little water but no emergent flora. It is heavily shaded by over-hanging dense Hawthorn *Crataegus monogyna* and Damsons *Prunus domestica*.

3.3 Bat Survey

In the 2009 survey an assessment of selected trees (identified for potential management) found them all to be fairly young with no knotholes or other potential for bat roosts. The 2012 survey found:

a high level of artificial illumination at the site with one light pillar at the northern end, twelve lights along the western boundary with Morrison's car park, eight down lighters

in a Morrison's canopy adjacent to the site boundary and two streetlights at the southern end of the site. Bat activity is shown on the annotated Site Plan drawing 723/4/2 in Appendix II.

During the survey on **28th May**, bat activity was recorded as follows:

- at 21.18 (sixteen minutes after sunset), a Common Pipistrelle recorded foraging amongst trees to the north of the site boundary.
- at 21.28, a Common Pipistrelle recorded foraging at the southern end of the site.
- at 21.33, a Common Pipistrelle recorded foraging amongst trees along western boundary.
- at 21.34, a Noctule flew N-S across the site.
- at 21.38, a Common Pipistrelle recorded foraging at the start point of the survey.
- at 21.41, a Common Pipistrelle still present amongst trees beyond northern boundary.
- at 21.53, a Common Pipistrelle recorded foraging over garden to east.
- at 21.56, a Common Pipistrelle recorded foraging at the southern end of the site.
- at 22.04,, a Common Pipistrelle recorded foraging over the northern end of the site.

From this time, no bat activity was recorded for the duration of the survey, which finished at 22.20.

3.4 Dormouse Survey

No evidence of the presence of Dormice was found in the tubes.

3.5 Badger Survey

In 2010 one outlier hole, in active use, was located on the eastern side of the embankment. In 2012 this hole was found to be dormant and long abandoned.

No evidence of Badgers or other large mammals was found crossing under or through the boundary fencing in areas of impenetrable scrub or elsewhere, and it is concluded that Badgers have abandoned this part of the former railway line.

3.6 Biodiversity Species

Although no invertebrate survey was conducted, this part of the former railway line is acknowledged to have been of lower interest for the specialist species than the area south of Limebrook Way (Essex Wildlife Trust pers com), even before its deterioration. A very dense mid-canopy of scrub has developed and little daylight is received. Although most hairstreaks prefer higher canopy areas, this area is still of low biodiversity value in comparison to the southern part as it has few "open canopy" areas and is well lit. This

area is a poor environment for the specialist invertebrates for which the rest of the railway area is known.

A variety of birds are likely to use the area, and some of these are likely to be Birds of Conservation Concern. Again, the density of the mid-canopy makes this area less attractive and few birds were observed on site visits.

3.7 Invasive Species

None of the notifiable non-native weed species were recorded.

4 LEGISLATION & PLANNING ISSUES

4.1 Legislation

4.1.1 European Protected Species (bats, Dormice, Great Crested Newts etc)

EPS are protected under the EC Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora (the Habitats and Species Directive). This legislation is enacted under the Conservation (Natural Habitats &c.) (Amendment) (England and Wales) Regulations 2010 (the 2010 Regulations). See appendix I for more information.

4.1.2 Wildlife & Countryside Act 1981 & Amendments - Protected Species

4.1.2.1 Reptiles

Two reptile species are given full protection under the Wildlife and Countryside Act - the Sand Lizard and Smooth Snake. Other species, Grass Snake *Natrix natrix*, Slow-worm *Anguis fragilis*, Viviparous (Common) Lizard *Zootoca vivipara* and Adder *Vipera berus* have partial protection. That is, they are protected under the Wildlife and Countryside Act 1981 (part of Section 9(1) and all of Section 9(5). That is, they are protected against intentionally killing and injuring (but not 'taking'), and against sale etc.; they are also on the Biodiversity Action Plan Priority List (Anon 1994).

4.1.3 Other Species Legislation

Certain species are protected under other legislation eg the Protection of Badgers Act 1992 gives special protection against harm to Badgers or their setts. See appendix I for more information.

4.1.4 Biodiversity Species and Habitats

A number of species and habitats which do not merit national protection are nevertheless threatened or endangered at a more localised scale, usually at a county level, or have been discovered to have undergone a rapid decline. These are listed on the UK or County (Local) Biodiversity Action Plans (BAPs) and would be considered to be part of the National Planning Policy Framework lower tier.

Biodiversity species or habitats are often the reasons for which Local Wildlife Sites (LoWS) are selected. That is, they do not have sufficient interest to be statutorily notified, but retain important local features, species or habitats.

Birds of Conservation Concern (BoCC) have no legal status, nor do regionally important assemblages of birds, but would be considered to be biodiversity issues at a local (parish or neighbourhood) scale. BoCC can be Red (most important), or Amber listed.

4.1.6 Birds

All nesting birds are protected under Section 1(1)(b) of the Wildlife and Countryside Act (1981) (*ibid*). It is an offence to:

... intentionally take, damage or destroy the nest of any wild bird while that nest is in use or being built; or take or destroy an egg of any wild bird.

As a consequence no scrub or tree clearance or management should be undertaken during the nesting season, unless works to make the habitats unsuitable are first undertaken, or a detailed examination before clearance starts declares the area free. Nesting includes ground-nesting birds such as Skylarks. The nesting season is generally taken to be between mid-March and mid-June, with an extension into August or September if second broods are present.

4.2 **Planning**

4.2.1 National Plans

The National Planning Policy Framework (NPPF) has as a fundamental aim to contribute to and enhance the natural and local environment by, amongst other things:

- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

and

- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

When determining planning applications (paragraph 118), local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

- opportunities to incorporate biodiversity in and around developments should be encouraged;
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats... ;

Paragraph 125 - By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

4.2.2 Local Plan Policies

Maldon District Replacement Local Plan was adopted in November 2005. MDC are preparing a Local Development Plan which will become the statutory development plan once adopted. This document will reflect the National Planning Policy Framework (NPPF). MDC currently have on consultation the Preferred Options document and there are a number of preferred options policies up for review relating to nature conservation and green infrastructure.

Policy N1 Green Infrastructure Network says that:

'Networks of green spaces and corridors provide opportunities for recreation, walking and cycling and also benefit wildlife by conserving and enhancing habitats, and providing buffers from development to important wildlife sites and watercourses. It is part of, and contributes to, a high quality natural and built environment which can help to enhance the quality of life for present and future residents and visitors as well as delivering a sustainable community.' paragraph 6.1.2.

The preferred policy (N1) wording is:

'A strategic multi-functional network of green infrastructure will be identified, managed and where possible, enhanced. Open spaces and areas of significant biodiversity interest will be protected. The creation, restoration, enhancement, expansion and interconnection of these sites will be encouraged as part of the green infrastructure network.'

'There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing and proposed green infrastructure. Where there is no adverse impact or the adverse impact can be satisfactorily mitigated, development proposals which promote the use and enjoyment of the natural environment will be encouraged.'

Policy N2 Natural Environment and Biodiversity states that:

'To protect the District's natural environment and biodiversity, developments should not have a detrimental impact on sites of local

ecological significance both in terms of quantity, quality and connectivity. The Council may require the developer to submit an ecological survey where there is a reason to suspect the presence of important wildlife or that the site is of local ecological value.' paragraph 6.2.4.

The preferred policy option also states that:

'The Council will aim to protect the biodiversity and recreational value of any identified local wildlife sites and semi natural green spaces. Where the creation or relocation of habitat is required, development should result in no net loss of these sites in terms of quantity, quality and connectivity.'

5 SITE EVALUATION

The Site a very small area of former railway line. Although disused railways are usually acknowledged to have some wildlife interest, this is usually in relation to the atypical substrates and the open grassland which can attract a variety of invertebrate wildlife. The habitats and soils/substrates which normally make disused railway lines of interest, are not present in this case.

It is important to put records and results into context using criteria such as designation, rarity, vulnerability, threat, location in a linkage of sites or features, importance at a given scale (eg national, local, parish) etc.

Evaluation criteria developed by the Institute of Ecology and Environmental Management for Environmental Impact Assessment (IEEM 2006) are given below:

Table 1 Ecological Valuation Levels

Level of Value	Comment
Inter-national	Sites, habitats or species protected under international legislation eg. Habitats and Species Directive. These include, amongst others: cSACs, SPAs, Ramsar Sites, Biosphere Reserves, plus undesignated sites supporting populations of internationally important species.
National	Sites, habitats or species protected under national legislation e.g. Wildlife & Countryside Act 1981 and amendments. Sites include SSSIs, NNRs, Marine Reserves, plus areas supporting significant areas of UK Biodiversity Action Plan habitats, or breeding populations of rare (Red Data Book) species.
Regional	Sites, habitats or species which may have regional importance, but which are not protected under legislation (although Local Plans may specifically identify them) e.g. viable areas or populations of Regional Biodiversity Action Plan habitats or species.

County	Sites, habitats or species meeting the criteria for County, Metropolitan or Unitary Authority area designation (e.g. County Wildlife Site, Key Site). This category includes designated Local Nature Reserves, which have statutory protection. Sites containing viable area or populations of County Biodiversity Action Plan habitats or species, local Red Data Book species etc.
District	Undesignated sites or features which enhance or enrich the local area (Borough, District etc). Sites containing viable area or populations of local Biodiversity Action Plan habitats or species, local Red Data Book species etc.
Local or Parish	Undesignated sites or features, which enhance or enrich the wildlife resource at a Parish or neighbourhood level.
Zone of influence	Includes nil or low ecological value but which form a function within the site or immediate surroundings.

These ecological valuation criteria are then applied to the subject site as seen below in table 2.

Table 2 Site Ecological Valuation Levels

Level of Value	Comment
Inter-national	Foraging and commuting bats of low significance.
National	Badger outlier no longer active.
Regional	None.
County	None.
District	Local invertebrates of note on other areas of the railway line are unlikely to be present in this section as most habitats are not present.
Local or Parish	Some mature trees of note for arboricultural and landscaping reasons.
Zone of influence	Small numbers of red List bird species may use the area but are unlikely to be present in significant numbers.

The above table suggests a very low wildlife interest on the Site, but with landscaping interest in relation to the trees on the site. The occasional presence of foraging but not roosting bats of the more common species does not raise this site to international level.

Even taking into account the potentially greater importance of location within an urban area, and the presence of a nearby Local Wildlife Site (LoWS), this does not raise the interest of this isolated and poor quality, small site. Therefore, the current information values the Site as of 'zone of influence' level, as it has a low ecological value. Even prior to cessation of management, the evaluation would not have been higher.

6 LOCAL WILDLIFE SITE STATUS

6.1 LoWS Definition

Statutory sites are designated as of special importance to protect the UK's most valuable and/or most threatened or rare habitats and species. But it is recognised that another tier of sites is required to protect and enhance biodiversity at a local scale. For decades Counties have identified sites containing the best reservoirs of local biodiversity and designated them as Sites of Importance for Nature Conservation. These were then changed to County Wildlife Sites, and more recently, to Local Wildlife Sites or LoWS (as not all designating authorities are counties).

In 2006 DEFRA published a set of national criteria to unify designation and to eliminate some of the more arbitrary rulings. Now, all counties or other areas, should use these criteria, but can apply local adjustments based on knowledge of more localised threats, rarity or other factors ('...this national guidance simply provides a standard framework against which to structure assessment of local nature conservation priorities, rather than a rigid set of rules.' DEFRA 2006 paragraph 39).

The document criteria are:

'The selection of Local Sites to help sustain biodiversity should be founded on national, regional and local biodiversity priorities. Other habitats and species features should also be considered if they contribute substantially to local natural character, even if they are not selected as priorities within the local BAP.' (Paragraph 39).

'The effective selection of sites depends on a good knowledge of the natural character of an area and the broad extent and quality of the nature conservation resource from which sites will be selected. Such information needs to be updated and reviewed from time to time to inform the setting of priorities and objectives for local biodiversity and geological conservation, which themselves inform the selection of Local Sites.' (Paragraph 41).

'Local Site systems should select all areas of substantive nature conservation value. Developing the criteria will hinge on defining what qualifies as 'substantive' in the local context. This is a complex issue affected by many factors including:

- *determining criteria thresholds for the nature conservation benefits to be secured through any particular Local Sites system. This will involve considering the amount and distribution of locally significant species, habitats and geological features to be selected into the system;*
- *distribution, abundance and increasing or declining trends in the nature conservation resources;*

- *maintaining viable populations and functioning ecological communities;*
- *differing abundance and therefore significance of the nature conservation resources, for example between rural areas and urban areas;*
- *general paucity of natural interest in the area; and,*
- *the importance of certain features at the edge of their range.'* (Paragraph 42).

In terms of site review, the DEFRA document also states that:

'We recommend that Local Site systems should from time to time:

- *aim to reconsider whether they are operating in the most effective way to achieve the overall objective set out in the Introduction to this guide;*
- *ensure that they continue to represent an adequate selection of sites of nature conservation interest in the area; and,*
- *consider the information on the condition of Local Sites and the effectiveness of measures for their conservation and management.'* paragraph 81.

And:

'It is important for the integrity and utility of Local Sites systems that the appraisal of sites remains valid and up to date.' paragraph 83.

In 2008 Essex Local Wildlife Sites Criteria were drawn up, subsequently revised in 2009, and minor amendments in 2010 (Essex Wildlife Trust 2010). This document seeks to extract the criteria from the national (DEFRA) document and apply it at a County scale. Thus, their selection criteria include:

- *'... the sites should play a key role in delivering the objectives of national and local (at county or local authority level) Biodiversity Action Plans.*
- *The suite of sites should represent local character and distinctiveness, embracing the range of variation of any given habitat type within the area in which the LoWS system will be operating (in this case, across Essex).*
- *That the resultant suite of sites, when viewed alongside SSSIs, should embrace the full range of important species and habitats for the target area covered by the LoWS Partnership at a level necessary to maintain the nature conservation interest of the area. In other words, all populations and habitat ecosystems should be sustainable within the LoWS/SSSI network.*

- *All sites that meet the criteria should be selected, with such sites displaying substantive nature conservation interest. The key to determining a successful site selection process is to define what is "substantive" across a broad range of habitats and species, encompassing many and varying degrees of interest. This needs to consider the relative conservation merits of a locally rare example of a nationally more common habitat or species assemblage against a local abundance of a nationally scarce or rare resource; the value of a small population on the edge of its range against a large population at the core of a species' distribution.*
- *The key qualities of habitats or species assemblages should be assessed in terms of the following factors: size or extent, diversity, naturalness, rarity or exceptional quality, fragility, typicalness, recorded history and cultural associations, connectivity within the landscape, educational or recreational value. Clearly, no one site will embrace all these features and several (e.g. rarity and typicalness, fragility and opportunities for learning) are antagonistic. It should be stressed also that for many Sites public access would be quite inappropriate, if in private ownership, and LoWS status should not be taken to imply public access to a piece of land.*
- *The selection process should not completely do away with ecological experience and sound judgement, reducing the process to a mere mechanical, rule-based approach.'*

For woodland, scrub and related habitats their criteria state that:

A wide range of woodland and scrub habitats are found in the county, including ancient semi-natural woodland, plantation woodland (including those on ancient woodland sites), woody scrub, pasture woodland, parkland and orchards. Remnant woodland features may also occur outside of woodland habitats and are often of high ecological interest, for example individual veteran trees and ancient species-rich hedgerows. This rich and varied woodland resource requires a holistic approach to its conservation to ensure that the full range of woodland habitats and their associated biological diversity are retained and protected within the LoWS network. This will require criteria that select both ancient and recent woodland stands, areas of scrub where little wood remains and woods that form part of a mosaic of habitats where the key quality is the complex interrelationship between two or more habitat types. (Para 4.2.2).

There are three key components to the selection of woodland LoWS in Essex:

- '1. *The recognition of ancient woodlands as the closest surviving links to the truly natural vegetation of the vast majority of the*

county, even though such sites have invariably been modified by centuries of management and incidental influence by Man....

2. The conservation of the range of national Priority BAP Habitat woodland types to be found in Essex. The woodland BAP Priority Habitats to be found in Essex are: Lowland Mixed Deciduous Woodland (which will encompass the majority of Essex's ancient woods), Lowland Beech and Yew Woodland (such Beech woods are rare in Essex and Yew woods non-existent) and Wet Woodland.
3. The role that woodlands, along with hedgerows, play in terms of providing habitat connectivity in what may otherwise be a wildlife unfriendly arable landscape.' (Para 4.2.3).

It also recognises that:

'Recent woodlands may also provide important landscape ecology functions. This may include, for example, acting as disturbance buffers and wildlife corridors around and between other valuable habitats, or an area that forms a component part of a more complex landscape mosaic. In light of the current increase in woodland cover, new and recently developed woodland stands may provide important long-term opportunities for future woodland conservation in Essex.' (Para 4.2.9).

Habitat Criterion 2 (HC2) – Lowland Mixed Deciduous Woodland on Nonancient (sic) Sites

"All significant areas of non-ancient Lowland Mixed Deciduous Woodland will be eligible for selection".²

Guidance In judging the significance of such areas of woodland, consideration will be given to:

- *Its proximity (or otherwise) to an area of ancient wood;*
- *The presence of a recognisable layered structure comprising ground flora, sub-canopy (or scrub understorey) and high canopy;*
- *The presence of canopy and understorey dominated by native deciduous species;*
- *The presence of a diverse and typical woodland ground flora and/or notable woodland fauna populations;*

² Double quotation marks are repeated from the EWT LoWS document and are not this author's.

- *The abundance or lack of woodland habitat or any type within that part of the county.*

Where these qualities are in doubt, special consideration shall be given to woods that present opportunities for the development of public access, countryside education or research.

Where a wood that largely falls within the definition of this UK BAP Priority Habitat, but which includes stands of other woodland types (e.g. Elm stands or scrub), the whole wood will be eligible for inclusion within the LoWS system.

The EWT 2010 species criteria acknowledges that they will broadly follow the nationally agreed 'lists' such as the Wildlife & Countryside Act 1981; the Habitats and Species Directive; the National and Local Biodiversity Action Plans. But they also acknowledge that:

'Although these lists provide the foundation for assessing notable status, not all species on these lists will warrant specific protection within the LoWS network. Conversely, important species assemblages may occur that comprise a range of relatively common species, whose interest is linked to an unusual or uncommon assemblage, or simply exceptional diversity.' (Para 5.1.3), and;

'In keeping with the Defra guidelines, on 'substantive' (significant) populations of notable species or important assemblages of species will be considered for selection. However, what constitutes a significant population will vary between species, their individual rarity and population trends, both nationally and in the county.' (Para 5.1.4).

Species Criterion 7 (SC7) – Dormouse

"All sites confirmed as supporting populations of Dormouse will be eligible for selection. Sites should include all adjoining areas of suitable Dormouse habitat and important movement corridors (HC30)".

Species Criteria 19 (SC19) – Important invertebrate assemblages

"Significant populations of notable invertebrate species, and/or important invertebrate assemblages (i.e. unusual or uncommon assemblages, or exceptional diversity) will be eligible for selection. In deciding the significance of a species, reference should be made to any available Essex Red Data List, national Red Data Book or "Review".

6.2 LoWS Value/Designation In Relation to This Site.

After a number of surveys over several years, the Site has been shown to be of low ecological value, and hence cannot be of 'substantive nature conservation value'

using both the DEFRA and EWT definitions. It therefore falls at the first hurdle for LoWS designation. On further examination, this assessment is upheld as follows:

1. The site is scrub/woodland on a former railway embankment; it therefore must be secondary woodland. It has no clearly defined ground flora, mid- and upper canopy, but does have some medium and old trees, notably oaks in a few locations. It is likely that they are self-sown from other trees nearby. It has no significant woodland ground flora either in species composition or extent (even before the grassier areas were shaded out by lack of management, this feature was not present). Although it very broadly fits into the community of HC2 (the LoWS citation criterion HCr2c could not be located in their document but is assumed to be a sub-group of HC2), it is not a "*significant area(s) of non-ancient Lowland Mixed Deciduous Woodland*" (EWT 2010) as required under the EWT criterion for the reasons given above.
2. The other EWT LoWS citation habitat HCr13 is heathland/acid grassland of which there is none on this site.
3. As far as has been recorded, it holds no priority or significant species, or, now that the Badger(s) has gone, no protected species.
4. Although no invertebrate survey has been undertaken, the important macro-invertebrates for which the railway line south of Limebrook Way is noted, are unlikely to be present. They were not recorded when the EWT managed the site, and the quality of the habitat has declined since and it is therefore unlikely that they would now be using this area.
5. A Dormouse record has been logged for the railway line to the south. To the south, the wooded embankments continue for over 2km and are linked to the ancient woodland of Hazeleigh Wood. The continuity of the railway line was severed by the construction of the B1018 Limebrook Way which would have led to the isolation of any Dormouse colonies to the north, had they been present. Dormice are threatened in part because they have great difficulty in crossing even small canopy gaps and expanding their range. The Limebrook Way would be a significant obstacle and it is probable that either they were never present and will now not colonise, or that they became isolated and died out (given the history of this section it is likely that they were never present). Although the Dormouse criteria state that '*sites should include all adjoining areas of suitable Dormouse habitat and important movement corridors*' this small and isolated site cannot be considered part of the Dormouse railway habitat due to its severance from the southern part and the significant obstacle posed by the road.
6. Past reference to the site as a wildlife corridor also fails. It lies at the northern tip of a linear site, but is separated from it. It "leads" into an industrial estate and is surrounded by significant urban and industrial habitats. It therefore is not a

corridor linking different wildlife areas. Whilst a few of the more mobile species such as birds and invertebrates might cross these obstacles, there is no evidence that they do in any major numbers or rarity of species. The adjacent habitats, and especially the road, are a significant barrier to colonisation by other less mobile species. It is therefore not "additional habitat" to the southern area into which animals can spread, not a corridor or stepping stone as it leads nowhere.

7. The long period of low level management post construction of Limebrook Way in the 1980s, and finally no management, has allowed the site to deteriorate into an overgrown area of scrub and trees with little wildlife interest. Its interest was probably always lower than that to the south which is grassier and more diverse. It has historically been included with the larger area for geographical reasons rather than wildlife ones. It is therefore unlikely that, with the reinstatement of management, that this site could be turned in to a valuable wildlife area.

The EWT site citation (see appendix II) is acknowledged (EWT pers com) to be in relation to the whole railway line site. During site reviews no attempt has been made to resurvey this section, to identify the interest (or lack of it) for this northern tip. It has been included in the wider LoWS railway site area, with, apparently, no evaluation. Its small size, lack of management, and isolation reduce its potential further. It no longer functions as a buffer to the larger LoWS to the south and does not qualify on reasons of species or habitat diversity, corridor function or buffer area.

7 CONCLUSIONS

The survey results and additional information describe a poor site with low wildlife interest. It is not of substantive nature conservation value and probably never has been, and therefore does not meet the criteria for a Local Wildlife Site (LoWS).

It is only designated as a LoWS for its historical association with the larger and more diverse EWT nature reserve to the south. Any residual interest dating from before it was severed from the reserve in 1986, has fallen into further decline through lack of management. This period (1986) is probably when the Essex Wildlife Trust effectively ceased all but minor management, judging from the age of trees and scrub. This, together with its isolation and small size, strongly indicate that its potential to be returned to LoWS status is severely limited.

No objection was made in 1986 by either the EWT or English Nature (now Natural England), to the loss of part of the railway line nature reserve to make way for the bypass (Limebrook Way) which now forms the southern boundary of this Site, nor to the severing and isolation of this section. By implication, the EWT have stated the Site is not considered to be of wildlife value as they no longer wish it to be part of the nature reserve.

The long period of severance from the southern railway line area suggests that this northern tip should be considered as a separate entity and not evaluated with the more diverse main area to the south. It has poor diversity, is not of substantive nature conservation interest, and has long since ceased to be a wildlife corridor into Maldon. It is physically separated from the southern railway line and EWT nature reserve, and does not confer on or receive any benefits from it.

As it is not of substantive nature conservation interest (or significant biodiversity interest - MDC draft LDP), nor is it likely to become so if management was reinstated, MDC draft policies N1 and N2 do not apply. The reasoning behind it not being a corridor, and being physically separated from the southern LoWS site, are rehearsed above. As that is the case, these proposals will also '*not have a detrimental impact on sites of local ecological significance both in terms of quantity, quality and connectivity.*'

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APPENDIX I

Protected Species Status

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EUROPEAN PROTECTED SPECIES (EPS)

BATS, OTTERS, GREAT CRESTED NEWTS, OTTERS, DORMICE

The following is given for guidance only; it is not a legal definition or interpretation and clients are advised to seek legal opinion as to its contents and the law.

EPS are protected under the EC Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora (the Habitats and Species Directive). This legislation is enacted under the Conservation (Natural Habitats &c.) (Amendment) (England and Wales) Regulations 2010 (the 2010 Regulations).

Species listed under Annex II of the Habitats Directive are subject to special protection and special offences exist. Under this legislation some disturbance of EPS falls outside the 2010 Regulations, but could potentially fall within the disturbance offence found in the Wildlife and Countryside Act 1981 (WCA).

- a) It is an offence to '*damage or destroy a breeding site or resting place of an EPS animal.*'

This offence exists even if the damage or destruction occurs accidentally. The offence is designed to 'safeguard the continued ecological functionality' of breeding sites and resting places, so such a place may be protected even if not in current use (eg if use is seasonal). Therefore a site or place used only occasionally for breeding or resting purposes is very likely to fall outside the offence. Early and detailed surveys are therefore necessary to determine the continued functionality and the degree of use of such a place. Mitigation which ensures the continued ecological functionality of a site or place would allow the offence to be avoided.

- b) It is an offence to '*deliberately disturb wild animals of an EPS including in particular any disturbance which is likely to impair their ability to -*

- i) *to survive, to breed or reproduce or to rear or nurture their young; or*
- ii) *in the case of animals of a hibernating or migratory species, to hibernate or migrate.'*

- c) Other EPS offences under the 2010 Regulations are:

- i) deliberately capturing, killing or injuring an EPS animal;
- ii) deliberately taking or destroying the eggs of an EPS animal;
- iii) deliberately picking, cutting, uprooting or destroying an EPS wild plant.
- iv) breach of a licence condition.

Where an offence under the 2010 Regulations is likely to be committed, the offence can be derogated by means of a licence. In order to obtain a licence the scheme has to pass three tests. These are:

- ▶ Regulation 53(2)(e) states that licences may be granted to '*preserve 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 53(9)(a) states that a licence may not be granted unless Natural England is satisfied '*that there is no satisfactory alternative*'.
- ▶ Regulation 53(3)(b) states that a licence cannot be issued unless Natural England is satisfied that the action proposed '*will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range*'.

There is a new offence of '*breach of a licence condition*', greater powers of inspection and investigation; and higher penalties including custodial sentences.

If the 2010 Regulations offence is relevant then an EPS licence is required to avoid prosecution; whereas if (in a development context) the WCA offence is relevant no licence is required (or even available), but the client / ecologist has to ensure that he/ she is covered by one of the defences (see WCA v), vi), below).

Wildlife and Countryside Act - EPS offences under the Wildlife and Countryside Act:

- v) intentionally or recklessly obstructing access to places used by the listed species for shelter or protection; or
- vi) intentionally or recklessly damaging or destroying any structure or place which the listed species use for shelter or protection.

An offence under the WCA as described above, can occur to an EPS, but also other species listed in various schedules (notably schedules 1,5 and 8) of the Act.

Defences under the WCA only:

- vii) '*the offence occurred as the incidental result of an otherwise lawful activity, and could not reasonably have been avoided.*'
- viii) '*the species was in a dwelling house*'.

These defences would have to be rigorously justified and documented.

Bats

In addition to the EPS legislation described above, all UK bat species are protected under Section 9 Schedule 5 of the Wildlife and Countryside Act 1981 and amendments; they are protected under the Berne Convention, and are given migratory species protection under the Convention of Migratory Species of Wild Animals (known as the Bonn Convention 1980), including its Agreement on the Conservation of Bats in Europe (EUROBATS).

NATIONAL PROTECTION

Birds

All nesting birds are protected under Section 1(1)(b) of the Wildlife and Countryside Act (1981). It is an offence to intentionally take, damage or destroy the nest of any wild bird while that nest is in use or being built; or take or destroy an egg of any wild bird. As a consequence no clearance should be undertaken during the nesting season, unless works to make the habitats unsuitable are first undertaken, or a detailed examination before clearance starts declares the area free. The nesting season is generally taken to be between mid-March and mid-June, with an extension into August if second broods are present, but current warm seasons have extended this period to between February and September.

Birds of Conservation Concern

Red List species are those which are globally threatened according to IUCN criteria; those whose population or range has declined rapidly in recent years; and those that have declined historically and not shown a substantial recent recovery.

Inclusion on the BoCC lists or in the UK BAP does not confer any species statutory protection. However, the species concerned are all of conservation importance and therefore impacts may be significant particularly where large populations of such species are likely to be affected.

Evaluation Criteria

The ornithological importance of the site (and the various compartments within the site) was assessed by evaluating the species recorded against the following criteria:

International importance:

- Annex 1 of the EC Birds Directive (Directive 79/409/EEC)
- Annex 4 of the Habitats Directive

National importance:

- Schedule 1 of the Wildlife & Countryside Act 1981
- UK Biodiversity Action Plans
- Red and Amber Lists are based on population declines on a national level, but often their relevance is at a local level.

Badgers *Meles meles*

Badgers *Meles meles* are protected under the Wildlife and Countryside Act 1981 (and amendments) and given further protection under the 1992 Protection of Badgers Act, which protects not only the animal but also its sett. In 2000 the Countryside and Rights of Way (CROW) Act gave further enforcement to sett protection.

The following is based on Natural England document:-

BADGERS AND DEVELOPMENT - A Guide to Best Practice and Licensing. Interim Guidance document 09/07.

Badgers are not rare or uncommon, and The Protection of Badgers Act 1992 is based primarily on the need to protect badgers from baiting and deliberate harm or injury (animal welfare). They are not therefore a wildlife issue, except that they more easily fall alongside ecological surveys than other subjects.

All the following are criminal offences:

- to willfully kill, injure, take, possess or cruelly ill-treat a badger;
- to attempt to do so; or
- to intentionally or recklessly interfere with a sett.

Sett interference includes damaging or destroying a sett, obstructing access to a sett, and disturbing a badger whilst it is occupying a sett. It is not illegal, and therefore a licence is not required, to carry out disturbing activities in the vicinity of a sett if no badger is disturbed and the sett is not damaged or obstructed.

Since development operations may take place over a protracted period, Natural England recommends that plans consider the effect of the development on seasonally-used setts as well as currently occupied setts. If a sett has shown signs of occupation within the past few months, it could be in use by badgers when development starts and should therefore be taken into account during the survey and any planning stages of the development. Where interference with a sett showing signs of use cannot be avoided during the development, a licence should be sought from Natural England.

Work close to Badger setts is only normally permitted between July and November.

Penalties for offences can be severe with fines of up to £5,000 plus up to six months imprisonment, for each illegal sett interference, or badger death or injury. The legislation does, however, recognise the need for a range of legitimate activities to be carried out and allows licences to be granted for certain purposes permitting work that would otherwise be illegal. The purposes for which licences can be granted include:

- Preventing serious damage to land, crops, poultry or any other form of property (e.g. a house, garden, road etc.)
- Any agricultural or forestry operations
- Any operation to maintain or improve any existing watercourse or drainage works, or to construct new works required for the drainage of land, including works of defence against sea or tidal water
- Development
- Preservation of ancient monuments or an archaeological investigation

The licensing authority in England is Natural England.

APPENDIX II

LoWS Site Citation

Species Records

Photographs

Habitat Map

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Local Wildlife Site Citation

A length of railway line to the south of the B1018 Limebrook Way is managed by the Essex Wildlife Trust, as Maldon Wick Nature Reserve. It is a local site of importance, called a Site of Interest for Nature Conservation (SINC), now called Local Wildlife Site or LoWS. LoWS are protected under Local Plan policies, and this site is listed as M3 Maldon Wick Nature Reserve in the Adopted Maldon Local Plan (2005). The Local Plan LoWS includes the Site, north of the railway line, although it is no longer part of the nature reserve.

In 2003 the reserve was described as follows:

The main interest of Maldon Wick Nature Reserve is its butterflies. Twenty-eight species have been recorded from the site, including Purple and Green Hairstreaks, the White-letter hairstreak, and Ringlef. The Green hairstreak *Callophrys rubi* is a widespread and common species of hedgerows, and woodland margins, and it feeds on Gorse, Bramble and Buckthorn *Rhamnus* spp. the Purple hairstreak *Quercusia quercus* is similarly widespread but is associated with Oak (*Quercus* spp..) woodland, as can be deduced from its scientific name. White-letter Hairstreaks *Strymonidia w-album* are southern species of woodland margins and rides. The Ringlef *Aphantopus hyperanthus* is a common species of damp meadows, hedgerows and woodland margins, and feeds on various common species of grass. In addition to the invertebrate interest there is a variety of plants including Primroses *Primula vulgaris*, Moschatel *Adoxa moschatellina*, and Spindle *Euonymus europaeus* (Essex Wildlife Trust pers com).

In 2007 a resurvey and review of the Maldon area SINC³ was conducted by Essex Ecological Services Ltd (EECOS), part of the Essex Wildlife Trust, to update the above information and to compare it with new LoWS (SINC) criteria. These criteria were developed in conjunction with Natural England and are compatible with other boroughs in Essex.

In the 2007 review an amendment was made to the reserve being:

M3 Maldon Wick EWT Reserve TL 842057; Maldon Wick Meadow added.

The 2007 review mapped the railway line including the area north of Limebrook Way, along with the meadow addition and described it as:

Ma35 Maldon Wick (7.7 ha) TL 842057

This site is an Essex Wildlife Trust nature reserve⁴ and an important corridor consisting of a mosaic of woodland, scrub, grassland and a large pond. The site is composed of two and a half kilometres of abandoned railway line, now woodland and scrub, together

³ EECOS 2007. Maldon Nature Conservation Study

⁴ In fact the land to the north of Limebrook Way is no longer part of the nature reserve.

with the adjacent Maldon Wick Meadow, grassland with a large pond and scattered Silver Birch (*Betula pendula*).

The flora of Maldon Wick includes Sweet Violet (*Viola odorata*), Primrose (*Primula vulgaris*) and Moschatel (*Adoxa moschatellina*) and the reserve is of particular value for its butterfly populations, including Purple and White-letter Hairstreaks. Nightingales, Bullfinch and Turtle Dove all breed on the reserve and Dormouse has been recorded.

The grassland of Maldon Wick Meadow supports a range of common plants including Birds-foot Trefoil (*Lotus corniculatus*), Common Vetch (*Vicia sativa*) and Oxeye Daisy (*Leucanthemum vulgare*). The pond has large stands of Bulrush (*Typha latifolia*) and an abundance of Common Water Crowfoot (*Ranunculus aquatilis*) as well as an invasion of Floating Pennywort (*Hydrocotyle ranunculoides*).

Selection Criteria: HCr2c, HCr13

UK BAP Priority Habitats: None

SPECIES RECORDS**Bat records within 2km of the site.**

<u>Grid ref.</u>	<u>Date</u>	<u>Record</u>
TL846063	03 Apr 1998	Common Pipistrelle recorded foraging
TL845064	23 Jun 1993	Pipistrelle roost in house
TL846065	16 Aug 1999	Brown long-eared bat found by member of public
TL845072	11 Sep 1996	Common Pipistrelle recorded foraging
TL837038	19 Oct 1995	Brown long-eared bat roost in house
TL844064	06 Jul 1990	Pipistrelle roost in house
TL852068	11 Jul 1989	Pipistrelle found by member of public
TL849070	13 Jun 2008	Brown long-eared bat found by member of public
TL823072	03 Apr 1995	Pipistrelle found by member of public
TL822038	08 May 2012	Common Pipistrelle recorded foraging
TL851073	19 Sep 1993	Pipistrelle recorded foraging
TL839055	12 Sep 2009	Brown long-eared bat roost in house
TL852059	20 Jun 1986	Pipistrelle roost in house
TL845072	11 Sep 1995	Pipistrelle found by member of public
TL845072	21 Sep 1995	Brown long-eared bat found by member of public

Dormouse records within 5km of the site.

<u>Grid ref:</u>	<u>Date</u>	<u>Record</u>
TL788058	08 Aug 1995	Hazel Dormouse
TL789061	08 Aug 1995	Hazel Dormouse
TL789070	10 Oct 1995	Hazel Dormouse
TL792018	10 Oct 1995	Hazel Dormouse
TL794064	10 Oct 2004	Hazel Dormouse
TL787067	17 Oct 1998	Hazel Dormouse
TL788061	23 Sep 2002	Hazel Dormouse
TL788058	11 Sep 2004	Hazel Dormouse
TL792065	11 Sep 2004	Hazel Dormouse
TL787063	11 Sep 1998	Hazel Dormouse
TL790017	11 Sep 2002	Hazel Dormouse

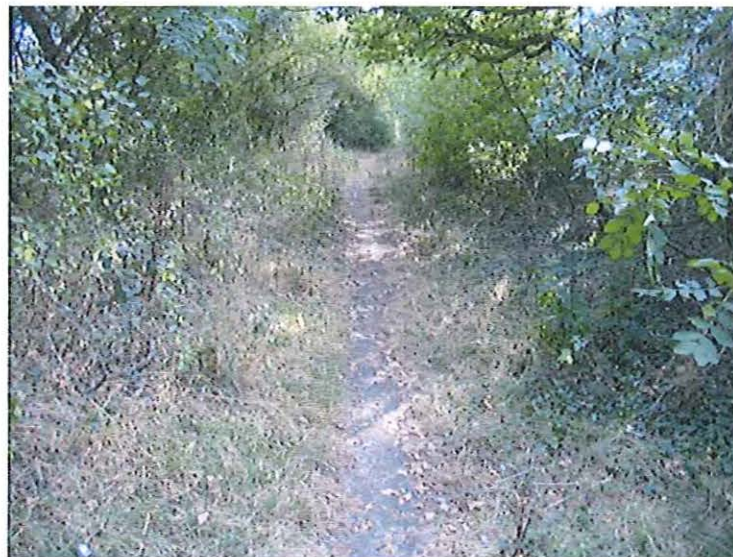
All the records refer to animals from the group of woodlands at Danbury and Bicknacre

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PHOTOGRAPHS



Eastern boundary footpath - Site to left, housing to right.



2009 - unofficial footpath along spine, with narrow grassy margins, shaded.

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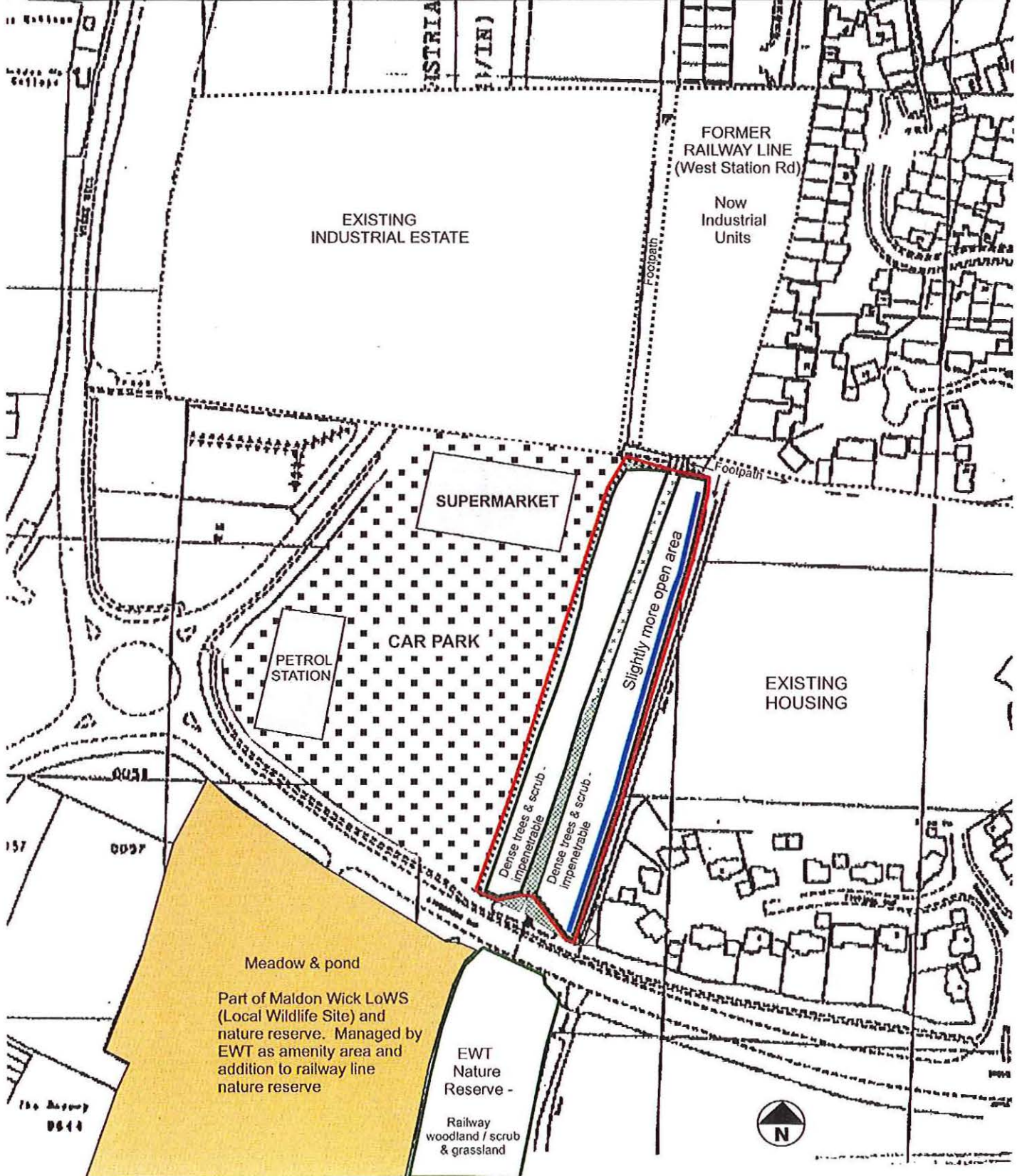
2012 - Former footpath at northern end (similar location as 2009 photograph) weedy and becoming shaded.












2012 - Former footpath towards southern end - impenetrable.

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	Project DISUSED RAILWAY ADJACENT MORRISON'S CAR PARK MALDON, ESSEX	Drawing: 723/4/1 HABITAT MAP
	Client: Maldon Wick Ltd	
	Scale: see grid Drawn by: JG Date: 08.08.2012 Rev1:	22 Heath Road Swaffham Bulbeck, Cambridge, CB25 0LS Tel/fax: 01223 811150 e-mail: jgreen@greencology.co.uk



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 Tree Belt Woodland / scrub  Scrub - continuous  Scrub - scattered  Ditch  Bare Ground (hard-standing)  Fence	 Noctule Bat Commuting  Common Pipistrelle Foraging	Project DISUSED RAILWAY ADJACENT MORRISON'S CAR PARK MALDON, ESSEX	Drawing: 723/4/2 BAT ACTIVITY MAP
		Client: Maldon Wick Ltd	 Green Ecology 22 Heath Road, Swaffham Bulbeck, Cambridge, CB25 0LS Tel/fax: 01223 811190 e-mail: jgreen@greencology.co.uk
		Scale: see grid Drawn by: JG Date: 10.08.2012 Rev1:	

