

Planning News

Each month at the Maldon Society's public meeting we present details of the latest planning applications submitted to the local authority and up-to-date reviews of pending legislation or items which, in our view, have the potential to affect the local community here in Maldon.

There can often be a considerable amount to read and absorb so it has been decided to repeat significant information on our web pages.

At the April 2023 meeting the following item was included:

This is a request from a potential developer to the Maldon District Council for an opinion as to the necessity for an Environmental Assessment before applying for consent to develop land adjoining the A414 Maldon Bypass.

Background to environmental assessment -

Environmental assessments aim to ensure the environmental effects of plans, programmes and projects are factored into decision making. The process for the local authority is to assess the environmental impacts of development plans and projects likely to have significant effects on the environment and this has been derived from two EU Directives and within the planning regime, the assessments consider the social and economic considerations, identifying the environmental effects and reasonable alternatives to the plan, policy, programme, or project; and identifying options to prevent or reduce environmental harm.

The balancing of these considerations is the role and function of the planning system, within which the assessment sits. This is not the role of the environmental assessment, although it is frequently concluded that the effect of the development overall is positive, because of provision of jobs, housing or other infrastructure.

Reference Number: 23/00180/SCR/EIA

Screening opinion request for up to 350 residential dwellings with supporting amenity space, landscaping, green infrastructure, and sustainable drainage systems and means of access. The proposals may also include an extension to Maldon Cemetery and ground mounted photovoltaics.

Land West A414 and south Of London Road, Maldon.

This is in accordance with the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA) and has been submitted on behalf of LSL MHF Ltd. This is land identified on the Council's 'Call for Sites' document last year. The submission includes:-

1. Introduction

- 1.1 On behalf LSL MHF Ltd (the 'Applicant'), Savills is writing to request a formal Environmental Impact Assessment ('EIA') screening opinion from Maldon District Council ('MDC') to determine whether the proposed development of land west of Maldon (the 'Proposed Development') constitutes Environmental Impact Assessment development.
- 1.2 The anticipated proposed development will comprise up to 350 dwellings (Use Class C3), with supporting amenity space, landscaping, green infrastructure, and sustainable drainage systems and means of access. The proposals will also include an extension to Maldon Cemetery.
- 1.3 This EIA Screening Request seeks to screen a Project of up to a maximum of 350 dwellings, however, it is possible that the number of dwellings proposed in the future planning application will be less than this amount.

The objective of the submission is to provide a high level of protection of the environment and to help integrate environmental considerations into the preparation of proposals for development to reduce their impact on the environment.

The EIA legislation prohibits the granting of consent for development which is likely to have a significant effect on the environment unless an EIA has been carried out.

The process involves-

- (i) the preparation of an environmental statement by the developer;
- (ii) public consultation on the application for planning permission or development consent, the environmental statement and any other relevant information;
- (iii) examination by the relevant authority of the information presented in the environmental statement and other relevant information including that received through the consultation;
- (iv) the authority coming to a reasoned conclusion on the significant effects of the proposed development on the environment; and
- (v) the authority integrating the reasoned conclusion into the decision on whether to grant consent for the development.

Regulation 3 of the EIA states:

“Prohibition on granting planning permission or subsequent consent for EIA development

The relevant planning authority **must not grant planning permission or subsequent consent** for EIA development **unless an EIA has been carried out in respect of that development.**

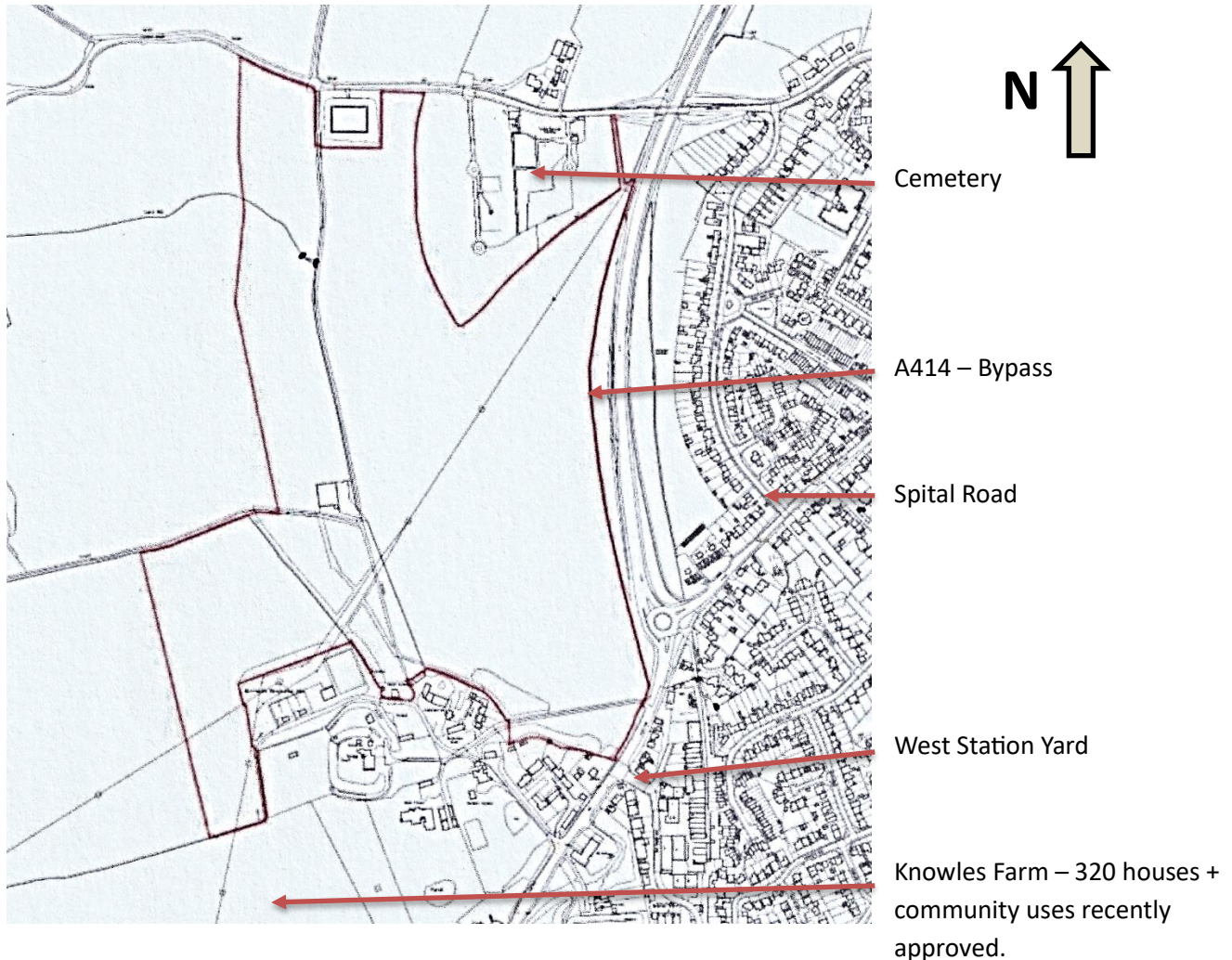
The EIA must identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect **significant effects** of the proposed development on the following factors—

- (a) population and human health;
- (b) biodiversity, with particular attention to protected species and habitats;
- (c) land, soil, water, air and climate;
- (d) material assets, cultural heritage and the landscape;
- (e) the interaction between the factors referred to in sub-paragraphs (a) to (d).”

The prospective developers report concludes (as you might expect) that there will not be any impact upon the fauna, flora, water, air quality, traffic, schools, doctors' surgeries or in fact anything at all if 350 houses are built on this agricultural site.

The local authority has only 3 weeks to respond to the request.

If accepted by MDC then it follows that, as they have previously identified the site as suitable for development, then an application for planning consent for housing would follow without opposition from them, although there would be the opportunity for public objections at that stage.



During their brief period of consideration of this assessment request the following views were received from Natural England.

Response from Natural England 3 March 2023 *(with MS underlining)*

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

It is Natural England's advice, on the basis of the material supplied with the consultation, that there are potential likely significant effects on statutorily designated nature conservation sites or landscapes and further assessment is required.

Schedule 3(2) of the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 requires consideration of the selection criteria for Schedule 2 EIA development and identification of 'environmental sensitivity'.

The proposed development is located within/partly within or has the potential for adverse effects on the following designated nature conservation sites or designated landscapes:

- * Blackwater Estuary Site of Special Scientific Interest (SSSI)
- * Blackwater Estuary (Mid-Essex Coast Phase 4) Ramsar
- * Blackwater Estuary (Mid-Essex Coast Phase 4) Special Protection Area SPA
- * Essex Estuaries Special Area of Conservation SAC

Natural England has not assessed the significance of any impacts on these designated sites or landscapes. The proposed development may therefore be likely to have significant effects on the interest features for which these sites are notified or the purposes of designation and we advise you to consider further whether an Environmental Impact Assessment (EIA) is required.

Should you decide that an EIA is not required, Natural England advises that sufficient information on the potential impacts of this proposal upon these designated sites/areas is submitted with any subsequent planning application. We would be pleased to discuss this further with the applicant through our Discretionary Advice Service.

Natural England does not hold information on the location of significant populations of protected species, so is unable to advise whether this proposal is likely to affect protected species to such an extent as to require an Environmental Impact Assessment (EIA). The developer must provide sufficient information for your authority to assess whether protected species are likely to be affected and, if so, whether appropriate avoidance, mitigation or compensation measures can be put in place. Further information is included in Natural England's standing advice on protected species.

Furthermore, Natural England does not routinely maintain locally specific data on all environmental assets. This development proposal may have environmental impacts on priority species and/or habitats, local wildlife sites, soils and best and most versatile agricultural land or on local landscape character that may be sufficient to warrant an EIA. Information on ancient woodland, ancient and veteran trees is set out in Natural England/Forestry Commission standing advice.

We therefore recommend that advice is sought from your ecological, landscape and soils advisers, local record centre, recording society or wildlife body on the local soils, best and most versatile agricultural land, landscape, geodiversity and biodiversity receptors that may be affected by the proposed development before determining whether an EIA is necessary.

Should you determine that an EIA is not required in this case, you should ensure that the application is supported by sufficient biodiversity, landscape and other environmental information in order for you to assess the weight to give these material considerations when determining the planning application.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

Please note that this response relates only to the EIA screening consultation. Natural England may wish to provide advice should your authority consult us on any subsequent planning application and associated environmental assessments.

The local authority determined the request within the 3 week period and concluded:

MDC Officer's conclusions in completing the required pro-forma:

Question	Answer
The development could involve actions which will cause physical changes in the topography of the area.	Effect is unlikely to be significant
Use would be made of land, soil, water, materials and energy which are likely to be non-renewable.	Unlikely to be significant
The site is Grade 2 Agricultural Land.	Effect is unlikely to be significant due to the extent of grade 1 and 2 land in the surrounding area.
produce solid wastes during construction and operation	Effect is not likely to be significant. Impose conditions.
Potential for noise and vibration during construction and ongoing noise and artificial lighting throughout the development's life.	Effect is not likely to be significant. Impose conditions.
Potential to lead to risks of contamination.	The effect is not likely to be significant. Impose conditions
Potential to cause a risk to the population and their human health during construction and operation.	Impact is unlikely to be significant. Impose conditions
Located within Flood Zone 1 but parts of the site are at high/medium risk of surface water flooding.	Not likely to be significant. Impose conditions
The site is within the impact zone for RAMS.	The impact on the designated European nature conservation sites is likely to be significant but the adverse impact could be mitigated through a financial contribution being secured through a Section 106 Agreement and the imposition of conditions.
Potential to be habitat for flora and fauna.	Could be developed as proposed without a likely significant impact through a carefully designed layout, implementation of mitigation/enhancement measures and appropriate conditions
The site is located, in relation to the Essex Landscape Character Assessment (2006), within area E2 (Tillingham and Latchingdon Coastal Farmland) identified as having a moderate sensitivity to change and there are existing trees and other vegetation within the site.	Due to the extent of development proposed and its rural location, it would have an adverse impact on the character and appearance of the area. However, this impact could be reduced through additional soft landscaping and the impact is not considered to be so significant that an Environmental Impact Assessment is required.

Five grade II listed buildings on the adjacent land at Maldon Hall Farm.	Impact is not likely to be significant. Impose conditions on planting an adequate buffer.
The archaeological interest of the site.	The submission of an archaeological desk-based assessment and geophysical survey of the site and the imposition of conditions on any planning permission granted
There are existing dwellings along with agricultural and commercial uses in the vicinity of the site.	Impact is not likely to be significant

Whilst it is anticipated that the development would have the potential to have impacts, it is not considered that the effects are likely to be significant and of such a magnitude for the development to be EIA development.

“Based on the above, Maldon District Council considers that the proposal would not be EIA development and, therefore, it would not be necessary for an Environmental Statement to be submitted as part of a planning application for the project.”

However, in answering question 12, no account has been taken by the local authority of the potential further development of the adjacent fields for a further 500 houses, a college and employment areas. This whole area of potentially 850 houses and other developments was identified by Maldon District Council in 2022 as ‘Suitable for Development’ although not included within the Local Development Plan current up to 2029.

Of course, these are not existing or been approved yet, so the answer is technically correct, although the recent approval of 320 houses south of this site at Knowles Farm has not been included, but the answer is weighted in favour of there not being any significant cumulative effects.

Question:	Answer to the question and explanation of reasons (Yes/No or Not Known (?)) or N/A)	Is a Significant Effect Likely? (Yes/No or Not Known or N/A)
12. CUMULATIVE EFFECTS		
12.1 Could this project together with existing and/or approved development result in cumulation of impacts together during the construction /operation phase?	No The residential development of the South Maldon Garden Suburb to the south (references 15/01327/OUT and 14/01103/OUT) and the North Heybridge Garden Suburb to the north (reference 19/00741/OUT) are in the process of being developed but are likely to have been substantially completed before development commences.	N/A