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CHIEF EXECUTIVE'S OFFICE
CHIEF EXECUTIVE
Fiona Marshall

03 March 2017

Dear Councillor

You are summoned to attend the meeting of the;

SOUTH EASTERN AREA PLANNING COMMITTEE

on **MONDAY 13 MARCH 2017 at 7.30 pm.**

in the Burnham Town Council Offices, Chapel Road, Burnham-on-Crouch.

A copy of the agenda is attached.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'F. R. Marshall', enclosed within a large, hand-drawn oval.

Chief Executive

COMMITTEE MEMBERSHIP

CHAIRMAN

Councillor R P F Dewick

VICE-CHAIRMAN

Councillor A S Fluker

COUNCILLORS

Mrs B F Acevedo
B S Beale MBE
R G Boyce MBE, CC
Mrs P A Channer, CC
Mrs H E Elliott
P G L Elliott
M W Helm
R Pratt
N R Pudney

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AGENDA
SOUTH EASTERN AREA PLANNING COMMITTEE
MONDAY 13 MARCH 2017

1. **Chairman's notices (please see overleaf)**

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 9 - 18)

To confirm the Minutes of the meeting of the Committee held on 13 February, (copy enclosed).

4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, other Pecuniary Interests or Non-Pecuniary Interests relating to items of business on the agenda having regard to paragraphs 6-8 inclusive of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

5. **Members' Briefing**

To receive an Officer led presentation.

6. **RES/MAL/16/01472 - Land at Junction of Steeple Road and Mill Road, Mayland**
(Pages 19 - 28)

To consider the planning application and recommendations of the Interim Head of Planning Services, (copy enclosed, Members' Update to be circulated)*.

7. **FUL/MAL/16/01481 - Land South West of High House, Green Lane, Burnham-on-Crouch** (Pages 29 - 38)

To consider the planning application and recommendations of the Interim Head of Planning Services, (copy enclosed, Members' Update to be circulated)*.

8. **FUL/MAL/16/01484 - Land South of Red Lyons Lodge, Burnham Road, Latchingdon** (Pages 39 - 48)

To consider the planning application and recommendations of the Interim Head of Planning Services, (copy enclosed, Members' Update to be circulated)*.

9. **FUL/MAL/16/01492 - Land South East of Harlow Sailing Club, Sea View Parade, Mayland** (Pages 49 - 62)

To consider the planning application and recommendations of the Interim Head of Planning Services, (copy enclosed, Members' Update to be circulated)*.

10. **FUL/MAL/17/00027 - Land Adajcent Three Ways, Batts Road, Steeple** (Pages 63 - 72)

To consider the planning application and recommendations of the Interim Head of Planning Services, (copy enclosed, Members' Update to be circulated)*.

11. **Other Area Planning and Related Matters** (Pages 73 - 74)

To consider the report of the Interim Head of Planning Services on the following matters:

- (i) Appeals Lodged
- (ii) Appeal Decisions

12. **Delegated Planning Applications**

To receive and note a list of decisions on planning applications taken by the Interim Head of Planning Services (to be circulated at the Meeting).

13. **Any other items of business that the Chairman of the Committee decides are urgent**

14. **Exclusion of the Public and Press**

To resolve that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph ??? of Part 1 of Schedule 12A to the Act, and that this satisfies the public interest test.

15. **Enforcement Update** (Pages 75 - 154)

To receive and note the report of the Interim Head of Planning Services, (copy enclosed).

Note:

1. The Council operates a facility for public speaking. This will operate only in relation to the consideration and determination of planning applications under Agenda Items No. 6 – 10.
2. The Committee may hear from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to speak is afforded only to those having previously made previous written representation.
3. Anyone wishing to speak must notify the Committee Clerk or a Planning Officer between 7pm and 7.20pm prior to the start of the meeting.
4. For further information please ring 01621 875791 or 876232 or see the Council's website – www.maldon.gov.uk/committees

* Please note the list of related Background Papers attached to this agenda.

NOTICES**Fire**

In event of a fire, Officers will notify those present. Please use the fire exits marked with the green running man. The fire assembly point is Barclays Bank car park. Please gather there and await further instruction.

BACKGROUND PAPERS

The Background Papers listed below have been relied upon in the preparation of this report:

1. The current planning applications under consideration and related correspondence.
2. All third party representations and consultation replies received.
3. The following Statutory Plans and Supplementary Planning Guidance, together with relevant Government legislation, Circulars, Advice, Orders, Directions and Guidance:

Development Plans

- Maldon District Replacement Local Plan 2008 – Saved Policies
- Maldon District Local Development Plan 2014-2029 - submitted to the Secretary of State for Examination in Public on 25 April 2014 (as amended).

Legislation

- The Town and Country Planning Act 1990 (as amended)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- The Planning and Compensation Act 1991 and The Planning and Compulsory Purchase Act 2004 (as amended)
- The Planning Act 2008
- The Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- The Town and Country Planning (Development Management Procedure) (England) Order 2010
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (Control of Advertisements) (England) Regs 2007
- The Town and Country Planning (Environmental Impact Assessment) Regs 2011
- Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012
- The Town and Country Planning (Local Planning) (England) Regulations 2012
- Growth and Infrastructure Act 2013

Supplementary Planning Guidance and Other Advice

- i) Government policy and guidance
 - National Planning Policy Framework (NPPF) and Technical Guidance
 - Planning Practice Guidance (PPG)
 - Planning policy for traveler sites
 - Planning practice guidance for renewable and low carbon energy
 - Relevant government circulars
- ii) Essex County Council
 - Essex Design Guide 1997
- iii) Maldon District Council
 - Submission Local Development Plan (April 2014) (as amended)
 - Five Year Housing Land Supply Statement 2014/15
 - Planning Policy Advice Note v.4 (October 2015)
 - Infrastructure Delivery Plan (All versions, including update in Council's Hearing Statement)
 - Infrastructure Phasing Plan (January 2015)
 - North Heybridge Garden Suburb Strategic Masterplan Framework - 2014

- South Maldon Garden Suburb Strategic Masterplan Framework - 2014
- Vehicle Parking Standards SPD - July 2006
- Accessibility to Buildings SPD – December 2006
- Children’s Play Spaces SPD – March 2006
- Sadd’s Wharf SPD – September 2007
- Heybridge Basin Timber Yard SPD – February 2007
- Developer Contributions Guide - 2010
- Affordable Housing Guide – June 2006
- Heybridge Basin Village Design Statement – November 2006
- Wickham Bishops Village Design Statement - 2010

Copies of all Background Papers are available for inspection at the Maldon District Council Offices, Princes Road, Maldon, Essex CM9 5DL during normal office hours

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**MINUTES of
SOUTH EASTERN AREA PLANNING COMMITTEE
13 FEBRUARY 2017**

PRESENT

Chairman	Cllr R P F Dewick
Vice-Chairman	Cllr A S Fluker
Councillors	Mrs B F Acevedo, B S Beale MBE, R G Boyce MBE, CC, Mrs P A Channer, CC, Mrs H E Elliott, P G L Elliott, M W Helm and R Pratt

971. CHAIRMAN'S NOTICES (PLEASE SEE OVERLEAF)

The Chairman drew attention to the list of notices published on the back of the agenda.

972. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor N R Pudney.

973. MINUTES OF THE LAST MEETING

RESOLVED

- (i) That the Minutes of the meeting of the Committee held on 16 January 2017 be received.

Minute 870 – Minutes of the last meeting

Councillor A S Fluker advised that the comment made was actually for Agenda Item 10 - FUL/MAL/16/01058 – The Dell, 102 The Drive, Mayland and not Agenda Item 11 - FUL/MAL/16/01114 - Agricultural Barn Goldsands Road Southminster Essex.

Minute 874 - FUL/MAL/16/00511 - St Lawrence Caravans Limited St Lawrence Caravan Site Main Road St Lawrence

The Committee asked for an update from the Interim Head of Planning Services as to whether the application and recommendation were sent to the Secretary of State and this was confirmed.

RESOLVED

- (ii) That subject to the above amendments, the Minutes of the meeting of the Committee held on 16 January 2017, be approved.

974. DISCLOSURE OF INTEREST

Councillor Mrs P A Channer, CC declared a non-pecuniary interest in relation to all items insofar as they related to Essex County Council as she was also a Member of Essex County Council who was consulted on highways, footpaths, education and other matters. She also declared a non-pecuniary interest in relation to:

Agenda Item 6 - OUT/MAL/16/00224 – Whitecap Mushroom Farm, Mill Road, Mayland, as she knew some of the supporters.

Councillor Mrs B F Acevedo declared an interest in:

Agenda Item 6 – OUT/MAL/16/00224 – Whitecap Mushroom Farm, Mill Road, Mayland as she knew the applicants.

Agenda Item 10 – FUL/MAL/16/01441 – 164 Station Road Burnham-On-Crouch Essex CM0 8HJ and ADV/MAL/16/01441 – 164 Station Road Burnham-On-Crouch Essex CM0 8HJ as she knew the applicants.

Councillor A S Fluker declared that in interests in the interest of openness and transparency:

Agenda Item 6 - OUT/MAL/16/00224 – Whitecap Mushroom Farm, Mill Road, Mayland as he knew some of the objectors.

Agenda Item 10 - FUL/MAL/16/01441 – 164 Station Road Burnham-On-Crouch Essex CM0 8HJ and ADV/MAL/16/01441 – 164 Station Road Burnham-On-Crouch Essex CM0 8HJ as he owned a property nearby.

975. MEMBERS' BRIEFING

The Chairman advised there would be no Members' briefing.

976. OUT/MAL/16/00224 - WHITECAP MUSHROOM FARM, MILL ROAD, MAYLAND

Application Number	OUT/MAL/16/00224
Location	Whitecap Mushroom Farm Mill Road Mayland Essex
Proposal	Demolition of former Mushroom Farm and associated buildings and erection of up to 35 dwellings with associated landscaping, open space and upgrading of Mill Road to adoptable standard
Applicant	Mr Alen Powl
Agent	Mr Andy Butcher - Strutt And Parker LLP
Target Decision Date	27 June 2016
Case Officer	Kara Elliott, TEL: 01621 875860
Parish	MAYLAND
Reason for Referral to the Committee / Council	Departure from the Local Plan 2005 Major Application Previous Committee Decision

The Committee considered the report of the Director of Planning and Regulatory Services and determined the following planning application, having taken into account all representations and consultation replies received.

Following the Officers' presentation Brenda Major, an objector, Lorraine Evers, a supporter and Andy Butcher, the agent, addressed the Committee.

The members discussed the application, particular discussions were had around the access to the site, with the Group Manager for Planning Services reading out the twelve conditions Highways had recommended the Council use, he also clarified that Highways had no objections to this application but had just suggested the conditions in relation to access.

In answer to a question the Interim Head of Planning Services explained the current process behind viability assessments, he advised that he felt that this information should be supplied to members within the committee reports but to move forward with this in the future, he recommended that Councillors be trained on how to read and interpret viability information.

It was agreed to go with the officer recommendation.

RESOLVED that this application be **REFUSED** for the following reasons:

1. The site is in a sensitive rural location outside of the defined settlement boundary for Mayland where policies of restraint apply. The Council can demonstrate a five year housing land supply to accord with the requirements of the National Planning Policy Framework. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Local Development Plan to meet the objectively assessed needs for housing in the District. The proposal would have an unacceptably intrusive urbanising effect upon the site adversely affecting the intrinsic character and beauty of the countryside. As such the proposal does not represent sustainable development and the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the scheme contrary to policies S2, H1, CC6 and BE1 of the adopted Maldon District Replacement Local Plan, policies S1, S8 and D1 of the Maldon District Submitted Local Development Plan and the guidance and provisions of the National Planning Policy Framework.
2. The proposed development would not meet the requirements for affordable housing provision in this part of the District. The development would not therefore contribute to a strong vibrant community because it would not provide a supply of housing required to meet the needs of present and future generations and as such is not considered to represent sustainable development contrary to policies S2 and H1 of the adopted Maldon District Replacement Local Plan, policies S1, S8, H1 and I1 of the Maldon District Local Development Plan and the guidance and provisions of the National Planning Policy Framework, in particular Paragraphs No. 7, 14, 17 and 50.

977. FUL/MAL/16/01129 - FISHERIES LABORATORY, REMEMBRANCE AVENUE, BURNHAM-ON-CROUCH

Application Number	FUL/MAL/16/01129
Location	Fisheries Laboratory Remembrance Avenue Burnham-On-Crouch Essex
Proposal	Variation of conditions 4 (external materials) and 8 (external joinery) of approved planning application FUL/MAL/15/00019 (Application for variation of Condition 2 Reference Number: FUL/MAL/12/01062) Amendments to scheme to reflect conservation issues relating to the site to include: Painted timber fascias and soffits to traditional eaves in lieu of tall parapets. Amendments to fenestration and detailing of elevations. Windows and doors to be painted timber. Minor amendments to plans to dwellings 08-12 and revisions to plots 13 and 14 to include replacement of round tower and omission of link. Variation of condition 2 to amend the design of plots 08-14 as revised drawings 1420/08-15.) Plots 1 - 7 inclusive shall be carried out in accordance with drawings 1244-012 Rev D.
Applicant	Mr M Hughes - Lynton Homes Ltd
Agent	Mr Richard Bennett - Bennetts(SA)LLP
Target Decision Date	10 April 2017
Case Officer	Rebecca Greasley, TEL: 01621 875805
Parish	BURNHAM SOUTH
Reason for Referral to the Committee / Council	Parish Trigger Major Application

The Committee considered the report of the Director of Planning and Regulatory Services and determined the following planning application, having taken into account all representations and consultation replies received.

The members discussed how previously with this application they had agreed with the initial materials but since then the applicant has come back to the Council on several occasions to change the conditions and that they were no longer happy to continue with this pattern.

It was mentioned that the previous conservation officer had spent a lengthy amount of time working with the applicants to agree the appropriate materials to be used within the conservation area and that now this was being disregarded.

RESOLVED that this application be **REFUSED** for the following reasons:

1. Given the site's prominent location on the waterfront, and proximity to the Conservation Area, the proposed materials are not considered to be appropriate or to safeguard the character and appearance of the adjacent Conservation Area or the locality contrary to policies BE1 and BE13 of the adopted Maldon District Replacement Local Plan, D1 and D3 of the submitted Local Plan and the guidance contained within the National Planning Policy Framework.

It was noted that Councillor R Pratt was nominated to represent this application should it go to appeal.

978. OUT/MAL/16/01357 - LAND WEST OF THE HOLLIES, STONEY HILLS, BURNHAM-ON-CROUCH

Application Number	OUT/MAL/16/01357
Location	Land West Of The Hollies Stoney Hills Burnham-On-Crouch Essex
Proposal	Erection of a two-storey detached dwelling and detached double garage with associated access from Stoney Hills.
Applicant	Mr J Losi & Mr N Cooper - Amex Estates
Agent	Mrs Lisa Skinner - Bidwells
Target Decision Date	15 February 2017
Case Officer	Kara Elliott, TEL: 01621 875860
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Departure from the Local Plan 2005 Parish Trigger

The Committee considered the report of the Director of Planning and Regulatory Services and determined the following planning application, having taken into account all representations and consultation replies received.

The officer presenting this report advised the committee that there were some typographical errors within the condition and listed the changes to be made subject to the committee approving this application.

Following the Officers' presentation Stephen Butler, the agent, addressed the Committee.

RESOLVED that this application be **APPROVED** subject to the following conditions:

1. The development shall be carried out in accordance with plans and particulars relating to the appearance, landscaping, scale of the site (hereinafter called "the reserved matters") for which approval shall be obtained from the Local Planning Authority in writing before any development is begun. The development shall be carried out fully in accordance with the details as approved.
2. Application for the approval of the reserved matters (appearance, landscaping, scale), shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun within two years from the date of the final approval of the reserved matters. The development shall be carried out as approved.
4. The scheme to be submitted as part of the reserved matters shall make provision for car parking within the site in accordance with the Council's adopted car parking standards. Prior to the occupation of the development the parking areas shall be constructed, surfaced, laid out and made available for such purposes in accordance with the approved scheme and retained as such thereafter.
5. Prior to the commencement of the development details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first occupation of the development.
6. Prior to the commencement of development, details and samples of the external materials to be used on the dwelling hereby approved shall be submitted to and

- approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
7. As part of the reserved matters details of the boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
 8. As part of the reserved matters full details of both hard and soft landscape works to be carried out shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance programme. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the Local Planning Authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.
 9. No hedges within the site shall be removed, cut back in any way, or damaged, unless or otherwise first agreed in writing with the local planning authority. No development shall commence until fencing/ground protection to protect the hedges/shrubs to be retained has been erected in accordance with BS5837:2012, details of which shall have been submitted to the local planning authority for written approval. The ground protection shall be laid as per the Arboricultural method statement in accordance with British Standard 5837:2012 (Trees in relation to construction) unless otherwise agreed in writing. The protective fencing shall be erected before the commencement of any clearing, demolition and building operations and shall be retained until all equipment, machinery and surplus materials have been removed from the site. The protective fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced protection zone nothing shall be stored or placed, no fires lit, no vehicle shall gain access, ground levels shall not be altered, no excavation shall be made and no structure shall be erected, unless otherwise first agreed in writing with the local planning authority. If within five years from the completion of the development a retained shrub or hedge is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, a replacement shrub or hedge shall be planted within the site of such species and size and shall be planted at such time, as specified in writing by the local planning authority.

979. RES/MAL/16/01423 - LAND AT JUNCTION OF STEEPLE ROAD AND MILL ROAD, MAYLAND

Application Number	RES/MAL/16/01423
Location	Land At Junction Of Steeple Road And Mill Road Mayland Essex
Proposal	Reserved matters application for the approval of layout on approved planning application OUT/MAL/12/00452 (Application for 60 bed single storey nursing home for frail elderly people in the later stages of dementia)
Applicant	Mr Daniel Wylie - Autumn Care Part Of Aldanat Group
Agent	Mr Christopher Mathews - Mathews Serjeant Architects
Target Decision Date	7 March 2017
Case Officer	Rebecca Greasley, TEL: 01621 875805
Parish	MAYLAND
Reason for Referral to the Committee / Council	Major Application

The Committee considered the report of the Director of Planning and Regulatory Services and determined the following planning application, having taken into account all representations and consultation replies received.

Following the Officers' presentation Peter Spires, an objector, addressed the Committee.

There was a small discussion about whether the outline planning permission expiry deadline had expired.

The Group Manager for Planning Services confirmed that this reserved matters application was submitted within the 3 year time frame from the decision notice on the outline application.

RESOLVED that this application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of two years from the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with the approved drawings specifically referenced on this decision notice.

980. FUL/MAL/16/01441 AND ADV/MAL/16/01442 164 STATION ROAD, BURNHAM-ON-CROUCH

Application Number	FUL/MAL/16/01441
Location	164 Station Road Burnham-On-Crouch Essex CM0 8HJ
Proposal	Change of use from A1 to A2, with alterations to shop front and side elevation. Demolition of rear ground floor extension.
Applicant	Mr B Levy
Agent	Miss Kate Palmer - Arcady Architects Ltd
Target Decision Date	8 February 2017
Case Officer	Nigel Hebden, TEL: 01621 875741
Parish	BURNHAM SOUTH
Reason for Referral to the Committee / Council	Departure from the Local Plan Parish Trigger

Application Number	ADV/MAL/16/01442
Location	164 Station Road Burnham-On-Crouch Essex CM0 8HJ
Proposal	Display of two non-illuminated fascia signs
Applicant	Mr B Levy
Agent	Miss Kate Palmer - Arcady Architects Ltd
Target Decision Date	3 February 2017
Case Officer	Nigel Hebden, TEL: 01621 875741
Parish	BURNHAM SOUTH
Reason for Referral to the Committee / Council	Departure from the Local Plan Parish Trigger

The Committee considered the report of the Director of Planning and Regulatory Services and determined the following planning application, having taken into account all representations and consultation replies received.

RESOLVED that that the planning application be APPROVED and that the application for advertisement consent be **GRANTED ADVERTISEMENT CONSENT** subject to the following conditions:

FUL/MAL/16/01441

1. The development hereby permitted shall begin no later than three years from the date of this decision.
2. The development shall be carried out in accordance with the following approved plans and documents: Drawing Nos 16/26/01, 16/26/02 and 16/26/03 Rev A.

ADV/MAL/16/01442

1. The express consent hereby granted shall be for a period of five years beginning from the date hereof.
2. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
3. No advertisement shall be sited or displayed so as to:

- (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military); or

- (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) Hinder the operation of any device used for the purposes of security or surveillance or for the measuring the speed of any vehicle.
4. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
 5. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
 6. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.
 7. Prior to the display of the advertisements hereby approved details of the materials and lettering to be used shall first be submitted to and approved by the local planning authority and the signage displayed in accordance with the details so approved.

981. OTHER AREA PLANNING AND RELATED MATTERS

The Committee considered the report of the Director of Planning and Regulatory Services and Members' Update on the following matters:

(i) Appeals Lodged:

Appeal Start Date: 01.02.2017

Application Number: FUL/MAL/16/00331 (APP/X1545/W/16/3165484)

Site: Land Adjacent the Bungalow, Southminster Road, Asheldham

Proposal: Proposed construction of two chalet style houses and carport

Appeal by: Mrs Mary Anderson

Appeal against: Refusal

Appeal procedure requested: Written Representation

Appeal Start Date: 02/02/2017

Application Number: OUT/MAL/16/00418 (APP/X1545/W/16/3164833)

Site: Sunnyside, Stoney Hills, Burnham-On-Crouch, Essex, CM0 8QA

Proposal: Demolition of existing garage and erection of two dwellings on land to the west of Sunnyside and associated access from Stoney Hills.

Appeal by: Mr & Mrs K Levins

Appeal against: Refusal

Appeal procedure requested: Written Representations

(ii) Appeal Decisions:

FUL/MAL/16/00388 (Appeal Ref: APP/X1545/W/16/3158007)

Proposal: Variation of condition 6 and 7, and removal of condition 8 on planning permission FUL/MAL/07/00842 (development of 12 new houses with workshops) allowed on appeal APP/X1545/A/08/2064100

Address: Drinkwater Farm, Maldon Road, Bradwell-On-Sea, Essex

Decision Level: Delegated

APPEAL DISMISSED – 19 January 2017
APPLICATION FOR FULL AWARD OF COSTS MADE BY LPA
REFUSED – 19 January 2017
APPLICATION FOR FULL AWARD OF COSTS MADE BY
APPELLANT REFUSED – 19 January 2017

OUT/MAL/15/00610 (Appeal Ref: APP/X1545/W/16/3153141)
Proposal: Development of land for 50 new dwellings, new vehicular access onto Orchard Drive, internal roads, footways and cycle links, open space, and landscaping.
Address: Land South West Of Riversleigh, Nipsells Chase, Mayland, Essex
Decision Level: Delegated
APPEAL DISMISSED – 19 January 2017

982. DELEGATED PLANNING APPLICATIONS

Councillor Mrs P A Channer CC asked the Interim Head of Planning Services to look into why on the Members' Update under Delegated Applications the application ADV/MAL/17/00113 was delegated as it's on Council land and should have gone to Committee. The Interim Head of Planning Services advised he would look into this matter and come back to Councillor Mrs Channer with an answer.

983. ANY OTHER ITEMS OF BUSINESS THAT THE CHAIRMAN OF THE COMMITTEE DECIDES ARE URGENT

There were none.

There being no further items of business the Chairman closed the meeting at 9.05 pm

CLLR R P F DEWICK
CHAIRMAN

(a)
(b)



**REPORT of
INTERIM HEAD OF PLANNING SERVICES**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
13 MARCH 2017**

Application Number	RES/MAL/16/01472
Location	Land at Junction of Steeple Road and Mill Road, Mayland
Proposal	Reserved matters application for the approval of appearance, landscaping & scale on approved planning application OUT/MAL/12/00452 (Application for 60 bed single storey nursing home for frail elderly people in the later stages of dementia)
Applicant	Mr Daniel Wylie - Autumn Care Part Of Aldanat Group
Agent	Mr Christopher Mathews - Mathews Serjeant Architects
Date Valid	19 December 2016
Target Decision Date	20 March 2017
Case Officer	Rebecca Greasley, TEL: 01621 875805
Parish	MAYLAND
Reason for Referral to the Committee / Council	Major Application Member Call In

1. RECOMMENDATION

REFUSE for the reasons detailed within Section 8 of this report.

2. SITE MAP

Please see overleaf.

Land at Junction of Steeple Road and Mill Road, Mayland
RES/MAL/16/01472



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Maldon District Council 100018588 2014



www.maldon.gov.uk

Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: SE Committee 16/01472/RES

Date: 28/02/2017

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is roughly rectangular with an area of 1.89 hectares and with frontages onto both Steeple Road and Mill Road. Although the site is linked to the main part of Mayland village by frontage development along Steeple Road, it lies outside the defined development boundary. The site supports two areas of large dilapidated glasshouses and associated buildings which are low rise structures and are largely screened from outside the site by overgrown hedges and trees.
- 3.1.2 Outline planning permission was granted under application OUT/MAL/16/01423 for a 60 bed care home for the elderly in later stages of dementia on the site. The principle of development and new access from Steeple Road was determined as part of the outline application.
- 3.1.3 In addition, planning permission has already been approved under reference for the layout showing the care home taking the form of a ‘U’ shape, which would be located to the north of the site. Parking would be located to the north east of the site, either side of the approved access road.
- 3.1.4 The current application seeks the appearance, landscaping and scale to be determined. The block plan shows that car parking is to be located to the north of the site, and the development would comprise a part two storey, part one and a half storey building, with rooms accommodated in the roof void. The building would measure a maximum height of 8.4m, a maximum width of 73.3m and maximum length of 63.9m.
- 3.1.5 In terms of landscaping, the application has been supported by a ‘soft landscaping and Planting specification’ dated 14th December 2016, and a drawing detailing the tree, shrub and hedge planting schedule. In terms of hard landscaping, a plan detailing the road, car parking and pavement surfaces.

3.2 Conclusion

- 3.2.1 The appearance, as a result of the scale, bulk and design of the building would result in demonstrable harm to the character or appearance of the locality. As such the development is considered to accord with the Maldon District Replacement Local Plan, the emerging Local Plan and the National Planning Policy Framework.

4. MAIN RELEVANT POLICIES

Members’ attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2012 including paragraphs:

- Chapter 8
- Paragraph 17

4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:

- **S2 - Development outside development boundaries** - Outside the defined development boundaries the coast and countryside will be protected for their own sake.
- **CON5 - Pollution Prevention** - Development having an adverse impact on the environment by means of pollution will be refused.
- **CON6 - Contaminated Land** - Consideration must be given towards issues arising from contaminated or potentially contaminated land.
- **CC5 – Protection of Wildlife at Risk on Development Sites** – Identifies that permission will not be granted for any development that would be liable to cause harm to species or animals.
- **CC6 - Landscape Protection** - The natural beauty and quality of the landscape shall be protected, conserved and enhanced.
- **CC11 - The Coastal Zone** - Development will only be permitted if it requires a coastal location and its impact upon the rural open character is minimal.
- **H1 - Location of New Housing** - Will not be allowed outside development boundaries unless required in accordance with other policies.
- **BE1 - Design of new development and landscaping** - Development will only be permitted if it is compatible with its surroundings and meets defined criteria.
- **BE8 - Lighting Schemes** – Shall be the minimum levels of lighting required, be designed to minimise spillage, visual impact and not present highway safety issues.
- **T1 - Sustainable Transport and Location of New Development** - The location of new development should be located within defined development boundaries and contribute towards sustainable transport objectives.
- **T2 - Transport Infrastructure in New Developments** – New development will be expected to achieve sustainability and highway safety throughout.
- **T6 - Improvement to Pedestrian Facilities** – Will require improvements to footways adjacent to the site.
- **T8 - Vehicle Parking Standards** - New development will be expected to meet the adopted parking standards.
- **PU6 - Renewable Energy** – Development of renewable energy facilities will be permitted provided subject to a number of considerations such as landscape and visual impact, noise, traffic, ecology, and adjoining properties.

4.3 Maldon District Local Development Plan submitted to the Secretary of State for Examination-in-Public on 25 April 2014:

- D1 - Design Quality and Built Environment
- S1 - Sustainable Development
- H4 - Effective Use of Land
- H3 - Accommodation for ‘specialist’ needs
- T1 - Sustainable Transport
- T2 - Accessibility
- I1 - Infrastructure and Services

4.4 Relevant Planning Guidance / Documents:

- Car Parking Standards
- Essex Design Guide
- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The principle of the site accommodating a 60 bed care home has already been established under approved application OUT/MAL/12/00452. This was approved with access as a matter for consideration.
- 5.1.2 Application RES/MAL/16/01423 was approved at the last South Eastern Area Planning Committee, where the proposed layout of the building to the north of the site was considered acceptable.
- 5.1.3 The determining factor as part of this current application is, therefore, whether the proposed appearance, scale and landscaping would result in demonstrable harm to the character and appearance of the locality, to the amenity of neighbouring properties.

5.2 Planning History

- 5.2.1 Outline planning permission has been granted on the site for a 60 bed care home. Having reviewed the submission, it is clear that the proposal is for self-contained units with each unit providing kitchen and bathroom facilities providing a level of independent living, with wider care facilities also evident. It is, therefore, queried whether the outline planning permission, and the current reserved matters submissions are for the same use class, this is explored in detail below.
- 5.2.2 The term “extra-care” is recognised as describing a range of specialist housing for the elderly, these include assisted living, extra or very sheltered housing, close care, continuing care retirement communities and retirement villages. Typically, contracts can be purchased for two hours a week for help with shopping and cleaning which can then be added to as the need arises. Such flexibility in provision is welcomed and is in line with the Government’s aim of achieving the personalisation of social care. It does mean, however, that the distinction between retirement housing and care homes and, in planning terms, between C3 and C2 uses, becomes blurred.
- 5.2.3 Paragraph 50 of the NPPF encourages the delivery of a mix of high quality homes, which includes meeting the needs of older people. Among other things, Local Planning Authorities should identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand.
- 5.2.4 The applicant has provided no evidence in support of the application to demonstrate that there is the same need for independent living provision, as care home provision which was given permission under the outline application. The applicant would need

to demonstrate that the revised scheme would meet the criteria of policy H3 of the submitted Local Development Plan.

5.2.5 In *R. (Kensington and Chelsea RLBC) v Secretary of State for Communities and Local Government 2009* 20 flats redevelopment of a care home were allowed on appeal but the local authority applied to have the decision quashed, submitting that the inspector had erred in distinguishing a care home from extra care housing for the purpose of applying the protective policies of the development plan, claiming they were part of the same activity or function to care for the elderly. The court held in dismissing the appeal that “*The inspector was entitled to have regard to the different need characteristics in reaching his conclusion as to whether there were one or two activities. He was fully entitled to conclude that the preferred use for extra care homes was a different activity from the protected care home use and that the policy protection did not include the preferred use*”. As such, in determining the revised activity and use of the building, the Council has to be confident that the proposed varied activity on the site is still as needed as the extant permission on the site. This information has not been forthcoming as part of the current application.

5.2.6 Notwithstanding this, it is argued that the current submission whilst a form of “extra-care” is not the same as the ‘care home’ which was granted outline permission. Whilst applicants may seek to amend their projects from what has been permitted at outline stage, they must still retain the validity of the original outline approval. In this instance, the proposal at reserved matters stage is not considered to be consistent with the scheme that was given outline planning permission.

5.3 Design and Impact on the Character of the Area

5.3.1 Policy BE1 (a) relates to design and seeks to ensure that new development is reflective of its setting in terms of architectural style, scale / bulk / height, materials and visual impact (among other factors). BE1 (c) states that outside of defined development boundaries, development should make a positive contribution to the landscape and open countryside.

5.3.2 Policy CC6 states that the natural beauty, tranquillity, amenity and traditional quality of the District’s landscape will be protected, conserved and enhanced. Proposals for development in the countryside will only be permitted provided that:

- a) No harm is caused to the landscape character in the locality, and
- b) The location, siting, design are appropriate for the landscape in which the development is proposed
- c) The development is landscaped to protect and enhance the local distinctiveness and diversity of the landscape character of the area in which it is proposed.

5.3.3 On 10 November 2008, planning permission was dismissed at appeal for extra-care elderly person’s bungalows, nursing home, affordable housing bungalows for the elderly and community building on the site. In determining the appeal the Inspector noted that ‘*given the proposed footprints combined with the proposed heights, whether or not the nursing home would have 2 or 3 storeys of accommodation, my view is that the proposed development would appear uncharacteristically dominant and urban in this setting*’.

- 5.3.4 In the outline application for the current scheme the indicative plans submitted showed a floor area of 3,000m² all on one level in a 'U' shaped building footprint. The plans showed a single storey building with a maximum ridge height level of 6m, set back into the site away from Steeple Road and well screened from Mill Road. On the basis of the indicative designs presented with the outline application it was considered that the proposal would have an acceptable impact upon this location.
- 5.3.5 Whilst it is noted that there was a reduction in the level of built form proposed on the site when comparing the dismissed appeal to the approved outline permission, the reduction in height of the proposed development shown on the submitted indicative plans was considered to result in a more acceptable form of development. At 6m in height this low level structure was not considered to appear obtrusive in this setting, and to overcome the previous concerns raised by the Inspector.
- 5.3.6 In light of the officer assessment at outline stage, it was considered appropriate to impose a condition ensuring that the development would be reflective of the locality. Condition 5 of the outline planning application states:
- 'The development through the reserved matters application shall accord with the details stated within the Design and Access Statement, unless otherwise agreed in writing by the Local Planning Authority.'*
- 5.3.7 In assessing the Design and Access Statement submitted with the outline planning application it is stated that *'The approximate floor area of the building is 3,000 m² all on one floor. The decision to design a single storey building was based on the Planning Officers advice that the building should be as low as possible in order to reduce its visual impact from the houses on the adjacent Mill Road. The buildings eaves and ridge-height in therefore lower than these houses'*.
- 5.3.8 In addition, in terms of scale it was stated that *'In recognition of the sites rural location on the edge of the village, the development is single storey with a low pitched roof to minimise the ridge height. The care home is one room deep either side of an access corridor therefore each of the wings is relatively shallow'*.
- 5.3.9 The proposed scale and bulk of the development, with two storeys and a maximum height of 8.4m is therefore at odds with the approved design and access statement, and would reflect a height which is more reflective of the indicative plans submitted with the previously refused application, which was subsequently dismissed at appeal.
- 5.2.10 The height of the development measuring 8.4m would be at odds with the more low level development and the immediate vicinity. To the north of the site is the former Dengie Garden Centre, which whilst it has closed down, comprises low level agricultural and horticultural buildings. To the immediate west of the site is a chalet style dwelling, and low level agricultural buildings located on the Mushroom Farm site. When viewed from Steeple Road, the residential units to the west of the approved new access are bungalows. Whilst it is noted that the dwellings to the east of the approved new access and some dwellings to the west of the application site are two storey dwellings, given the footprint of these dwellings they appear as subservient and sympathetic levels of built form when viewed from the streetscene. The proposed care home as a result of its height, combined with the already approved footprint and

location, is considered to result in a dominant and overbearing form of development in the soft edge of settlement location.

5.2.11 In addition to the above assessment, the details of any subsequent reserved matters application must be in accordance with the outline approval, including any conditions attached to the permission. Having reviewed the planning history of the site, it does not appear that the applicant has applied to vary or remove the condition that restricts the size and scale of the development, and therefore the proposed plans are contrary to the restrictions of the outline permission. Furthermore, it is noted that the description of the proposal is for a '*60 bed single storey nursing home*'. Therefore, it is not possible for a two storey building to be approved as part of the reserved matters application; it is contrary to the permission granted as part of the outline permission.

5.3.12 In light of the above assessment, the proposed layout is considered to be unacceptable and would fail to comply with policies BE1 and CC6 of the Maldon District Replacement Local Plan, the submitted Local Plan and the NPPF.

5.4 Impact on Residential Amenity

5.4.1 The closest residential property to the development is No. 5 Mill Road, located at a distance of 23m from the western wing elevation of the proposed care home. The west facing (north wing) of the care home would have first floor windows facing towards Mill Road, and a terraced area at first floor.

5.4.2 In terms of overlooking these windows would have an outlook of the existing streetscene, and as such are not considered to result in a form of overlooking or loss of privacy that would be demonstrable to the occupiers of the dwellings located down Mill Road.

5.4.3 The first floor terrace area would result in a form of amenity space that is large enough for siting and dining to be encouraged, and is therefore likely to be used throughout the day. However, given the distance of the first floor balcony and No.5 Mill Road measuring 23m, and the fact that the balcony faces onto the front of the dwelling where there is likely to be noise and disturbance from those using Mill Road, any harm caused by reason of noise and disturbance is not considered to be so demonstrable to current occupiers to warrant a reason for refusal. In addition environmental health officers have raised no objection to the application.

5.4.4 In terms of overshadowing, given the distance of the proposal from the neighbouring occupiers, there is not considered to be any demonstrable loss of light to current occupiers.

5.5 Access, Parking and Highway Safety

5.5.1 The Maldon Vehicle Parking Standards state that for a care home, there should be a maximum of 1 space per resident staff + 1 space per 3 bed spaces / dwelling units. The building would accommodate:

- 45 units accommodating one bedroom (23 x 1 bed at ground floor and 22 x 1 bed at first floor)
- 5 units accommodating two bedrooms (1 x 2 bed at ground floor and 4 x 2 bed at first floor)

- 5.5.2 For 55 bedrooms, assuming that each room would accommodate one person, 19 spaces would be required, which leaves 11 spaces for staff. Details have not been provided as part of this application to confirm how many staff would be on site, however it is acknowledged that the requirements as set out in the Maldon Vehicle Parking Standards are maximum requirements. On this basis, the proposed 30 vehicle parking spaces are considered to be acceptable.
- 5.5.3 Condition 14 of the outline application states that *‘The number of parking spaces and how these are laid out (including dimensions) shall be in accordance with the Parking Standards in the adopted Maldon Vehicle Parking Standards unless otherwise agreed by the Local Planning Authority. This applies to all vehicular parking spaces including disabled requirements together with cycle parking and facilities for powered two wheelers and garages that are considered as parking spaces’*. Whilst the parking arrangement has been shown as part of the current submission, dimensions and details of how these are to be laid have not been provided as part of this application. As such, the applicants should ensure that this condition is met.
- 5.5.4 In terms of access, the proposed new access point is located in the same position as approved within the outline planning application. As such, the principal of the site accommodating a new access in this position has already been established.

5.6 Private Amenity Space and Landscaping

- 5.6.1 Landscaping is a matter for consideration as part of this current scheme. The submitted plans show a courtyard area of both hard and soft landscaping to the west of the application site. This area includes a sensory garden, a kitchen garden, terrace areas and footpaths. In addition, hardstanding is located to the east of the application site in the form of the access, the car parking areas and a turning circle.
- 5.6.2 The proposed landscaping is considered to appear manicured, and at odds with the more verdant and natural nature of the site. Notwithstanding this, the proposed landscaping is functional to the use of the site as a care home, and is not considered to result in demonstrable harm to the area. As a result, there is no objection to the proposed landscaping.

6. ANY RELEVANT SITE HISTORY

- **OUT/MAL/06/1415** - Extra care bungalows, nursing home and community building. Refused 20 March 2007.
- **OUT/MAL/08/00087** - Outline application for 34 extra-care elderly persons bungalows, 60 bed nursing home, 14 affordable housing bungalows for the elderly and community building. Refused on 21 May 2008, dismissed at appeal.
- **OUT/MAL/12/00452** – Application for 60 bed single storey nursing home for frail elderly people in the later stages of dementia. Approved, subject to a S106 19th December 2013.
- **OUT/MAL/12/00452** – Application for 60 bed single storey nursing home for frail elderly people in the later stages of dementia. Approved, subject to a S106 19th December 2013.

- **RES/MAL/16/01423** - Reserved matters application for the approval of layout on approved planning application OUT/MAL/12/00452 (Application for 60 bed single storey nursing home for frail elderly people in the later stages of dementia). Approved 16.02.2017

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Mayland Parish Council	Object - Concerns regarding the access, the scale of development and flooding.	Covered within the Officer report

7.2 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No comments or objection	

7.3 Representations received from Interested Parties

7.3.1 Nothing received at the time of writing.

8. REASONS FOR REFUSAL

- 1 The development by reason of its height will result in a dominant and overbearing form of development in the soft edge of settlement location, resulting in a demonstrable visual impact on the rural character and appearance of the locality, contrary to policy BE1 and CC6 of the Maldon District Replacement Local Plan, D1 of the submitted Local Plan and the National Planning Policy Framework.
- 2 Insufficient information has been provided as part of the application to demonstrate that there is an identified need for the variation of “extra – care” to be provided on the site which includes independent living accommodation, contrary to policy H3 of the submitted Local Plan and the National Planning Policy Framework.
- 3 The proposal by reason of its nature and height fails to accord with the restrictions and conditions imposed on the outline planning application reference OUT/MAL/16/01423 and, as such, the applications cannot be read as one permission, contrary to the National Planning Practice Guidance.



**REPORT of
INTERIM HEAD OF PLANNING SERVICES**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
13 MARCH 2017**

Application Number	FUL/MAL/16/01481
Location	Land South West of High House, Green Lane, Burnham
Proposal	Erection of a four bedroom detached chalet style dwelling.
Applicant	Mr S Latif
Agent	Raymond Stemp Associates
Date Valid	21 December 2016
Target Decision Date	17 March 2017
Case Officer	Rebecca Greasley
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Parish Trigger Departure from the Local Plan 2005

1. RECOMMENDATION

APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see overleaf.

Land South West of High House, Green Lane, Burnham On Crouch
FUL/MAL/16/01481



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Maldon District Council 100018588 2014

www.maldon.gov.uk

Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: SE Committee 16/01481/FUL

Date: 28/02/2017

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the southern side of Green Lane, Burnham-on-Crouch. To the north of the site is Green Lane, with agricultural land located beyond. To the west of the site is land which is subject to extant permission for a new dwelling (FUL/MAL/15/01046), to the east and south of the site is agricultural land.

3.2 Conclusion

- 3.2.1 The recent appeal decisions in the immediate locality are material considerations in determining the current application. Whilst the proposal would result in some encroachment into the rural character and appearance of the locality, the site is not isolated or remote from other properties and is situated within an area that is undergoing considerable change. The existing detached property at High House lies a short distance to the north-east of the appeal site on the opposite side of Green Lane with two detached dwellings under construction to its east. As such, the proposal is not considered to result in such a level of harm to warrant a reason for refusal.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2012 including paragraphs:

- Chapter 7 – requiring good design
- Chapter 11 – conserving and enhancing the natural environment

4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:

- S2 Development Outside Development Boundaries
- H1 Location of New Housing
- B1 Design of New development and Landscaping
- CC6 Landscape Protection
- CC7 Special Landscape Area
- T1 Sustainable Transport and Location of New Development
- T2 Transport Infrastructure in New Development
- T8 Vehicle Parking Standards

4.3 Maldon District Local Development Plan submitted to the Secretary of State for Examination-in-Public on 25 April 2014:

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H4 Effective use of Land
- T1 Sustainable Transport

4.4 Relevant Planning Guidance / Documents:

- Car Parking Standards
- Essex Design Guide
- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

5. MAIN CONSIDERATIONS

5.1 Planning History

- 5.1.1 Planning permission was granted at appeal under reference FUL/MAL/15/01046 for ‘the erection of a four bedroom detached dwelling’. The Inspector’s decision in relation to allowing the appeal is, therefore, a material consideration in determining the scheme subject of this application on the adjacent site.
- 5.1.2 The comments made by the Inspector in allowing the appeal for the adjacent site will be covered in detail within the report.

5.2 Principle of Development

- 5.2.1 The proposal is for a new dwelling outside of the settlement boundary of Burnham-On-Crouch, as defined by the adopted Local Plan and the Pre-submission Draft Local Plan and is, therefore, considered contrary to policy in principle.
- 5.2.2 Policy S2 of the current Local Plan provides the strategic position for the District through defined development boundaries for villages/urban areas within the District and seeks to protect areas outside of defined development boundaries from new development, in the interests of protecting the countryside and coastal landscapes of the District. This principle is brought forward within Policy S8 of the LDP.
- 5.2.2 On balance, whilst the site is not considered to be located in the most sustainable location, weight must be given the appeal decision at the adjoining site, and the applications approved at committee in the immediate vicinity.
- 5.2.4 As such, there is no objection to the principle of the site accommodating a residential unit, subject to the scheme causing no demonstrable harm to the character and appearance of the locality, to the neighbouring amenity, and ensuring that parking and amenity space provisions are met.

5.3 Design and Impact on the Character of the Area

- 5.3.1 Policy BE1 of the adopted Local Plan states that development proposals will be permitted if they are a) compatible with their surroundings in terms of factors including i) layout, iv) scale/bulk/height, v) external materials, vi) visual impact and vii) effect on the safety and or amenity of neighbouring properties or the occupiers therein, and b) make a positive contribution to the landscape and open countryside.
- 5.3.2 Further, paragraph 55 of the NPPF states that “to promote sustainable development in

rural areas, housing should be located where it will enhance or maintain the vitality of rural communities” and that “Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as, amongst others:

- the exceptional quality or innovative nature of the design of the dwelling. Such a design should:
- be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
- reflect the highest standards in architecture;
- significantly enhance its immediate setting; and
- be sensitive to the defining characteristics of the local area”.

5.3.3 The application site currently contributes to the rural character and appearance of the streetscene. The application site is open to the east, and given the topography of the site any new development on the site would be highly visible from public vistas. The site currently forms an important gap in development ensuring that an open countryside setting is maintained.

5.3.4 Notwithstanding this, there are a number of schemes that have been allowed at appeal in the immediate locality which will inevitably change the character and appearance at this end of Green Lane. One new dwelling has been approved at land to the west of the application site (15/01046) and six new residential units have been allowed at land to the south of the application site (16/00120). As such and, on balance, the impact of the development on the character and appearance of the locality, when considering the recently approved development in the immediate locality is not considered to be so demonstrable to the rural character and appearance of the locality to warrant a reason for refusal.

5.3.5 In terms of design, it is noted that the design is identical to that of the dwelling approved on the adjoining plot of land, as no concerns were raised with the design of the scheme approved by the Inspector, it would be unreasonable for the council to raise concerns with an identical scheme.

5.3.6 In light of the above assessment, the proposal by reason of its siting, design, scale and bulk is not considered to result in demonstrable harm to the character and appearance of the locality.

5.4 Impact on Residential Amenity

5.4.1 In terms of the impact of the proposal on residential amenity, whilst it is noted that the site has no immediate neighbours, weight must be given to the extant permission on the adjacent plot which could be built out.

5.4.2 One window is located on the eastern flank elevation of the new dwelling. This window would be able to directly overlook the private amenity space of the extant permission on the adjoining plot. The window is a rooflight serving a secondary source of light to a bedroom. As such a condition could be imposed ensuring that this window would be obscure glazed and non-openable to avoid any form of overlooking to the neighbouring property.

- 5.4.3 In terms of overshadowing, given the distance of the new dwelling from the extant permission on the adjoining site measuring approximately 10m, any loss of light is not considered to be demonstrable to the amenity of the neighbouring property.

5.5 Access, Parking and Highway Safety

- 5.5.1 The access approved under extant permission FUL/MAL/15/01046 would be extended and utilised as part of the current application. Essex County Highways have raised no objection to the proposal subject to a number of conditions.
- 5.5.2 The conditions suggested include no unbound material to be used within 6m of the highway boundary, the provision of bicycle storage and ensuring that no discharge of surface water onto the highway. Whilst the first and second conditions are considered to meet the tests for conditions, the final condition proposed would not meet the tests.

In terms of parking, in order to comply with Policy T8, for a 4 bedroom dwelling a maximum of 3 spaces is required. The proposal shows a formal parking arrangement for two parking spaces. However, the site is considered to be large enough to accommodate one additional parking space to meet the requirement of a four bedroom dwelling.

5.6 Private Amenity Space and Landscaping

The proposal is considered to provide sufficient amenity space to meet the criteria of 100sqm for a four bedroom property as set out in the Essex Design Guide.

5.7 Other Material Considerations

- 5.7.1 The conditions recommended are reflective of those imposed on the extant permission on the adjoining site, and those that would meet the tests suggested by statutory consultees.

6. ANY RELEVANT SITE HISTORY

- 14/01216/FUL - Erection of a 5 bedroom dwelling and a detached double garage. Refused 02.03.2015
- 15/01046/FUL - Application for the erection of a four bedroom detached dwelling, revised application following refusal FUL/MAL/14/01216. Refused 14.12.2015. APPEAL ALLOWED

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Burnham Town Council	Object – the proposal would result in backland development, urbanizing the rural locality.	Covered in detail within the officer report.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Highways	No objection, subject to conditions	Not all of the conditions suggested meet the tests for conditions, those that are relevant and necessary are evident in the officer recommendation.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions regarding surface water and foul drainage details to be submitted.	The suggested conditions would meet the tests for conditions.

7.4 Representations received from Interested Parties

7.4.1 Letters were received **objecting** to the application from the following and the reasons for objection are summarised as set out in the table below:

- Barrie Stamp - 62 Maldon Road, Burnham on Crouch
- Wendy Stamp - 62 Maldon Road, Burnham on Crouch
- Mrs Natalie Bettany (on behalf of BROOD) - 11 Chandlers, Burnham-on-Crouch.
- Glyn and John Hitcham – Creeksea Lodge, Creeksea Lane, Burnham on Crouch
- Mr John Wallis - Primrose Hill, 6 Green Lane, Burnham-On-Crouch

Objection Comment	Officer Response
Fails to comply with the development plan, is outside of the settlement boundary and the council is able to demonstrate in excess of a 5 year supply of housing.	The decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004).
Unacceptable design & bulk would have a detrimental impact upon the character & appearance of the area	See section 5.3
The applicant who has recently won one house application on appeal said he wanted only one house to live in for	Not a material planning consideration

Objection Comment	Officer Response
himself as he returning from America and wanted to be near his parents.	
The proposed development would result in an isolated residential development that would not respect the existing pattern of houses already there.	See section 5.3
The LDP inspector has recently said that although adjacent to a strategic site is completely different from being actually on the site itself	See section 5 of the report
The Council themselves @ the recent EiP are now only targeting 100 'windfall' houses across the complete District over the next 5 years	N/A
The entrance/exit to this dwelling is over a already established passing place on a blind bend on a single track lane & is therefore dangerous	Permission has already been granted for this area to be used as an access point.

8. **PROPOSED CONDITIONS**

1. The development hereby permitted shall begin no later than three years from the date of this decision.
REASON: To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in accordance with the following approved plans: location plan, SP02, X01, X02 and 05.
REASON: In order to ensure that the development is carried out in accordance with the approved details.
3. No development shall commence until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
REASON: To protect the landscape character of the area in accordance with policy CC6 and BE1 of the adopted Maldon District Replacement Local Plan, policy D1 of the submitted LDP and the National Planning Policy Framework.
4. No development shall commence until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include (a) means of boundary enclosure (b) hard surfacing materials (c) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate and (d) implementation timetables. All hard and soft landscape works shall be carried out in accordance with the approved details. Any plant material removed, dying or becoming seriously damaged or diseased within 5 years of planting shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.
REASON: To protect the landscape character of the area in accordance with policy CC6 and BE1 of the adopted Maldon District Replacement Local Plan, policy D1 of the submitted LDP and the National Planning Policy Framework.

5. No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall include delivery, demolition and construction working hours and the approved Statement shall be adhered to throughout the construction period for the development.
REASON: To protect the amenity of the neighbouring occupiers, in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, policy D1 of the submitted LDP and the National Planning Policy Framework.
6. No development shall commence until details for the storage of bicycles has been submitted to and approved in writing by the local planning authority. The storage shall be provided prior to the first occupation of the development and shall thereafter be retained as such.
REASON: To promote and secure the provision of sustainable transport in new development, in accordance with policy T1 of the submitted Local Plan and the National Planning Policy Framework.
7. Prior to the first occupation of the development, the vehicular access, parking and turning areas shall be provided in accordance with the approved site plan SP02 and retained as such thereafter. No unbound materials shall be used in the surface treatment of the vehicular access within 6m of the highway boundary.
REASON: In the interests of highway safety and free flow of traffic and in accordance with policy T2 of the Maldon District Replacement Local Plan, T2 of the submitted Local Plan and the National Planning Policy Framework.
8. Prior to the commencement of the development details of the surface water drainage strategy and foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
REASON: to ensure that there is an appropriate foul and surface water drainage scheme in place, in accordance with policy CON5 of the Maldon District Replacement Local Plan, and the National Planning Policy Framework.

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**REPORT of
INTERIM HEAD OF PLANNING SERVICES**
to
SOUTH EASTERN AREA PLANNING COMMITTEE
13 MARCH 2017

Application Number	FUL/MAL/16/01484
Location	Land south of Red Lyons Lodge, Burnham Road, Latchingdon
Proposal	Demolish existing dwelling house, store, 2 stable buildings, hay barn and erect replacement dwelling house and detached garage/cart lodge
Applicant	Mr Baldock
Agent	Hibbs and Walsh Associates
Date Valid	21 December 2016
Target Decision Date	15 February 2017
Case Officer	Nigel Hebden, TEL: 01621 875741
Parish	LATCHINGDON
Reason for Referral to the Committee / Council	Parish Trigger

1. RECOMMENDATION


APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see overleaf.

Land South of Red Lyons Lodge, Burnham Road, Latchingdon
FUL/MAL/16/01484



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	<p>www.maldon.gov.uk</p>	<p>Organisation: Maldon District Council</p>
		<p>Department: Department</p>
		<p>Comments: SE Committee 16/01484/FUL</p>
		<p>Date: 28/02/2017</p>
		<p>MSA Number: 100018588</p>

3. SUMMARY

3.1 Application Site

- 3.1.1 The application site is located on the south side of Burnham Road about 1km east of Latchingdon. The site has a narrow frontage which is occupied by the footprint of a dilapidated prefabricated bungalow. To the south the site widens out with disused stables and an open paddock. To the west are a variety of ex-farm and other buildings that comprise the Red Lyons Business Centre. To the south there is a large agricultural building which it is said was used as an indoor equestrian centre and to the east open fields with extensive views across open countryside.

3.2 Proposal

- 3.2.1 It is proposed to demolish the bungalow on the frontage and as well as two stable blocks, retaining one set of stables in a nib of land to the west, and erect a new dwelling within the paddock area. A new dwelling is to be erected in the centre of the paddock area and a garage/store in the location of the western stable block.

3.3 Conclusion

- 3.3.1 The principle of developing a replacement dwelling in this general location has been established by the grant of previous planning permissions. The proposal is larger than those previously approved and in a marginally more prominent location. However, the design is considered to be better and any additional harm to the character and appearance would not warrant rejecting the proposal.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2012 including paragraphs:

- **Para 17:** Take account of the different roles of different areas and recognise the intrinsic character and beauty of the countryside.
- **Para 47:** Deliver a wide choice of high quality homes.
- **Para 56:** Require good design.

4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:

- S2 Development outside development boundaries
- CC6 Landscape Protection
- CC22 Replacement dwellings
- BE1 Design of New Development and Landscaping
- T8 Vehicle Parking Standards.

4.3 Maldon District Local Development Plan submitted to the Secretary of State for Examination-in-Public on 25 April 2014:

- S1 Sustainable development

- D1 Design quality and the built environment.

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The principle of the development has been established by the two previous approvals which accepted the principle of a new replacement dwelling albeit of a larger size (4 bedrooms) located further back from the frontage which is quite restricted. In each case the proposed new dwelling was proposed to be located within the western part of the paddock area and the existing stables would be demolished. In the case of permission Ref FUL/MAL/15/00012 it was proposed to replace the western range of stables with a new stable block and hay store in a similar location. The principle of the proposal which is a replacement dwelling outside the settlement boundary for the village has been established by the previous decisions.

5.2 Design and Impact on the Character of the Area

- 5.2.1 The approved dwellings were to be located directly on what is now the western boundary of the paddock. It is now proposed that the main western wall of the dwelling would be 12 metres further to the east so that the dwelling is located in a more central location within the paddock. The building would also be of a different design with a total footprint of 284 sq metres as opposed to 218 sq metres for the previously approved schemes. The ridge height is marginally lower being 7.5 metres as opposed to 7.7 metres for the approved schemes.
- 5.2.2 The design approach however is quite different; the approved scheme has low swept eaves level with rooms in the roof and 10 dormer windows. In the Planning Statement that accompanies the application, it is stated that the design takes the form of a traditional masonry barn which takes reference from the Arts and Crafts movement. The building would be clad in stone with prominent buttress features a “midstrey”, slit windows and a large window that can be covered with double “doors”. The structure is 1.5 storeys but whilst there are roof lights there are no dormer windows. However, a balcony is included within the southern elevation which is not a “barn” feature. However, the general quality of the design can be considered to be superior to that which was approved.
- 5.2.3 The Parish Council considers that the new location is “greenfield”. The approved scheme was to be mainly located within the paddock area. However, it will be moved to a potentially more prominent location. The two barns nearby would still be demolished to form the access and driveway for the house. The proposed site is in a slightly more exposed location. However, it would sit behind Red Lyons Lodge and a new bungalow is being built to the east on the road frontage. In addition, from many viewpoints the dwelling would be viewed in conjunction with the collection of buildings that comprise the Red Lyons Business centre to the west. Given that there is an extant consent for a dwelling close by it is not considered that the proposed dwelling and its location would cause materially greater harm to the quality of the landscape or character of the area than that that has already been approved.

- 5.2.4 The proposal also includes a garage/store which is to be located on the western edge of the site as before. This will replace one of the stable blocks and is slightly larger than previously approved and includes a studio in the roof space. The garage will be seen against the backdrop of existing buildings and there is no objection on visual grounds.

5.3 Impact on Residential Amenity

- 5.3.1 The nearest existing dwelling is Red Lyons Lodge which is located 45 metres to the north and a thick conifer hedge separates the two properties so there are unlikely to be any issues of overlooking. It is, therefore, considered that the development will not adversely affect the amenities of neighbouring properties.

5.4 Access, Parking and Highway Safety

- 5.4.1 The existing point of access will be used for the new dwelling and the gating arrangements will enable cars to pull off the highway when the gates are being opened or closed. The highway authority has not raised an objection. Apart from the double garage there is ample space for parking on the driveway in front of the dwelling.

5.5 Private Amenity Space and Landscaping

- 5.5.1 The private amenity space that adjoins the dwelling more than meets the Council's adopted standards. Most of the boundaries are marked by trees or post and rail fencing including the paddock area. The application suggests that the existing post and rail fencing be retained. Previous approvals have required that hedging be provided along most of the boundaries, but it is suggested that the only direct interface with open countryside is eastern and south eastern boundaries of the paddock where the domestic garden would be formed. It is recommended that if the application is to be approved, hedging should be required for these boundaries only.

5.6 Other Material Considerations

- 5.6.1 The proposed dwelling will just overlap the footprint of the approved dwelling so that both schemes could not be implemented; there is therefore no need for a planning obligation to secure non-implementation of the existing 2015 permission. The existing dwelling would have to be demolished to form the access.

6. ANY RELEVANT SITE HISTORY

- **APPLICATION NO 11/01098** Demolish dwelling house, store, three stables buildings, barn and hay barn and erect replacement dwelling house and cart lodge/garage, stables and hay barn. Approved 12/04/12
- **APPLICATION NO FUL/MAL/15/00012** Demolish dwelling house, store, three stable buildings, barn and hay barn. Erect replacement dwelling house and cart lodge/garage, stables and hay barn. Approved 08/04/15

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Latchingdon Parish Council	Object: the dwelling is now placed on a green field when there is a perfectly good brown field next to it	Two previous approvals (which the Parish either supported or did not respond to) were located substantially on the paddock

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
ECC Highways Dept	No objection subject to condition	Noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to condition	Noted

7.4 Representations received from Interested Parties

- 7.4.1 1 letter was received **in support** of the application from the following and the reasons for support are summarised as set out in the table below:

Mr and Mrs G Palmer & Mr and Mrs Rutkin: Red Lyons Lodge, Burnham Road, Latchingdon

Supporting Comment	Officer Response
Fully support proposal as will tidy up site which is in a derelict state and provide screening in respect of industrial park to west.	Noted

8. PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended)
- 2 The development shall be carried out in accordance with the following approved plans and documents: Drawing Nos 14/90/01, 14/90/02, 14/90/03,

14/90/03 (first floor), 14/90/04, 14/90/05, 14/90/06, 14/90/07, 14/90/08 & 14/90/09.

REASON: To ensure that the development is carried out in accordance with the details as approved.

- 3 No development shall take place until written details or samples of all materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved.

REASON: To ensure that the materials to be used in the external finishes of the development are appropriate for the rural location in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan and policy D1 of the submission Local Development Plan.

- 4 Within the first available planting season (October to March inclusive) following the commencement of the development a hedgerow shall be planted and maintained along the boundaries of the access to the site and along the east and south eastern boundaries of the site. Unless otherwise first agreed in writing with the local planning authority the hedgerow shall be of the following specification:-

Field Hedge - A mixed indigenous hedgerow to be made up of at least 80%

Hawthorn (*Crataegus monogyna*), with the remaining a mixture of other locally indigenous species such as holly, hazel, blackthorn, or elder, and incorporating within the hedgerow trees of a species chosen from the following - Oak (*Quercus robur*), Ash (*Fraxinus excelsior*), Field Maple (*Acer campestre*). - The hedgerow plants shall be planted as a double staggered row, with rows 300mm apart and plants spaced at 450mm centres along each row.

The plants shall be planted into ground previously cleared of all weed growth and mulched with a fabric/polythene sheet mulch and/or organic mulch. Shrub guards should be used to protect the plants. If within five years of the planting of the hedge any plant is removed, uprooted, destroyed or dies another plant of the same species and size shall be planted in the first available planting season, unless the local planning authority gives written consent to any variation.

REASON: To ensure appropriate boundary treatment to the curtilage within the rural location in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan and policy D1 of the submission Local Development Plan.

- 5 Prior to commencement of the development hereby approved, the existing dwelling on the site shall be demolished and the resulting material removed from the site.

REASON: In order to comply with the submitted details and as this development has been considered justified on a one for one basis only in accordance with policies CC22 of the adopted Maldon District Replacement Local Plan and policy H4 of the submission Local Development Plan. In addition safe access to the site for construction purposes needs to be formed at the outset.

- 6 The outbuildings hereby permitted shall only be used for those purposes ancillary and incidental to the use of the dwelling house to which it relates and not for any commercial or business purpose or as annex accommodation. The

stables hereby to be retained shall be used solely for the private stabling of horses and no business or commercial use including for the purposes of livery or any riding school activity shall take place at the site.

REASON: To ensure the outbuildings are used for their specific and justified purpose in the interests of site's location within the rural countryside in accordance with policies BE1 and CC6 of the adopted Maldon District Replacement Local Plan, and policies S8 and D1 of the Submission Local Development Plan.

- 7 Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order amending, revoking or re-enacting that Order) no garages, extensions or separate buildings (other than ancillary outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site without planning permission having been obtained from the local planning authority.

REASON: To protect the character and appearance of the rural countryside from any significant outbuilding development within the site in accordance with policies BE1 and CC6 of the adopted Maldon District Replacement Local Plan, and policies S8 and D1 of the Submission Local Development Plan.

- 8 There shall be no raising of ground levels within the site and prior to any development commencing details of the ground floor slab level shall be submitted to and approved by the local planning authority and the scheme shall be implemented in accordance with the details so approved.

REASON: To ensure that the visual impact of the development in its wider setting is respected in accordance with policies BE1 and CC6 of the adopted Maldon District Replacement Local Plan, and policies S8 and D1 of the Submission Local Development Plan.

- 9 There shall be no burning of animal or stable wastes anywhere on the site, as shown edged in red (or blue) on the plans which form part of this permission.

REASON: To ensure the protection of amenities of the neighbouring occupiers to the site in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan and policy D1 of the Submission Local Development Plan.

- 10 No works or development shall take place until full details of hard landscape works to be carried out have been submitted to and approved in writing by the local planning authority. These details shall include the layout of the hard landscaped areas with the colour materials and finishes to be used and the proposed method(s) of surface water drainage. The hard landscape works shall be carried out as approved prior to the first occupation of the development hereby approved unless otherwise first agreed in writing by the local planning authority.

REASON: To ensure the appearance of appropriate hardstanding within the rural area and appropriate methods of releasing surface water through permeable surfaces across the site in accordance with policy policies BE1 and CC6 of the adopted Maldon District Replacement Local Plan, and policies S8 and D1 of the Submission Local Development Plan.

- 11 No development shall commence until details of the foul and surface water drainage schemes to serve the development have been submitted to and agreed in writing by the local planning authority. The agreed schemes shall be implemented prior to the first occupation of the development.

REASON: To ensure that no flood risk is presented to the occupiers of adjacent land and to prevent potential pollution in accordance with policy CON5 of the Maldon District Replacement Local Plan.

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**REPORT of
INTERIM HEAD OF PLANNING SERVICES**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
13 MARCH 2017**

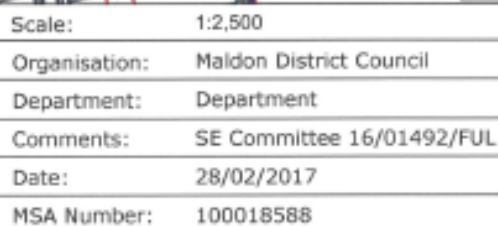
Application Number	FUL/MAL/16/01492
Location	Land south east of Harlow Sailing Club, Sea View Parade, Mayland
Proposal	Proposal for a replacement dwelling to re-establish the street frontage along Sea View Parade.
Applicant	Mrs Beverley Corcoran
Agent	Baca Architects
Target Decision Date	02/03/17
Case Officer	Nigel Hebden Tel 01621 875741
Parish	MAYLAND
Reason for Referral to the Committee / Council	Member Call In Departure from the Local Plan

1. RECOMMENDATION

APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see overleaf.



3. SUMMARY

3.1 Site Location

- 3.1.1 The application site comprises an area of 0.8 ha extending along the south side of Sea View Parade, an unmade unadopted road. The site is outside the settlement limits and is presently scrubland with some isolated trees and woodland to the south east. There is post and rail fencing around it and a gated access. To the north and south are dwellings fronting Sea View Parade and North Drive whilst to the north is the Harlow Sailing Club which fronts the foreshore of the Blackwater with a club house and dinghy park.

3.2 Proposal

- 3.2.1 It is proposed to erect a single 3 bedroom dwelling within the north-west corner of the site. The design of the dwelling is stated as being innovative and incorporating flood resilience measures. A new access would be formed from the north eastern corner of the site. A small formal garden would be formed to the west with the remainder of the site remaining managed scrubland.

3.3 Conclusion

- 3.3.1 The proposed development is located outside the settlement boundary for the village and normally there would be a policy objection to this proposal. However, as the development is considered to be of an outstanding and innovative design, incorporating features that will protect the structure and occupants from flooding it is considered that an exception to policy may be made on this occasion in accordance with paragraph 55 of the NPPF.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2012 including paragraphs:

- **Para 7:** Sustainable development includes an environmental role which requires the use of natural resources prudently and that waste and pollution is minimised.
- **Para 17:** Core principles – effective use of land that has been previously developed (brownfield land) provided not of high environmental quality. The role and character of different areas should be taken into account including the intrinsic character and beauty of the countryside.
- **Para 47:** There needs to be a significant boost to the supply of housing to provide high quality homes. Councils should demonstrate that they have a 5 year supply of deliverable housing land.
- **Para 55:** Isolated homes in the countryside should be avoided exception in exceptional circumstances including high quality and/or innovative design.
- **Para 56:** Good design is a key aspect of sustainable development.
- **Para 100:** Inappropriate development in areas at risk of flooding should be avoided.
- **Para 118:** Local authorities should aim to conserve and enhance biodiversity

- **Para 109:** Planning system should contribute to and enhance the natural and local environment by protecting and enhancing local landscapes

4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:

- S2 Development outside Development Boundaries
- CON5 Pollution Prevention
- CON6 Contaminated land
- CC1 Development Affecting an Internationally Designated Nature Conservation Site
- CC2 Development Affecting a National Designated Nature Conservation Site.
- CC3 Development Affecting a Local Designated Nature Site
- CC5 Protection of wildlife at risk on development sites
- CC6 Landscape Protection
- CC7 Special Landscape Area
- CC11 Coastal Zones
- CC22 Replacement dwellings
- H1 Location of new housing
- H6 Housing Density
- H9 Affordable Housing
- BE1 Design of Development and Landscaping
- BE8 Lighting
- T2 Transport infrastructure in new developments
- T8 Vehicle Parking Standards

4.3 Maldon District Local Development Plan submitted to the Secretary of State for Examination-in-Public on 25 April 2014:

- S1 Sustainable development
- S7 Prosperous Rural Communities
- S8 Settlement boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D5 Flood Risk and Coastal Management
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services
- I2 Health and Wellbeing

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The application is described as “a replacement dwelling to re-establish the frontage along Sea View Parade”. At the present there is no dwelling on the site and examination of the Council’s aerial photograph records does not indicate the presence of a dwelling standing as far back as 2000. There is some evidence of a pad for some building in the south east corner of the site and, when visited, it was noted that that there was an overgrown pile of broken concrete present in this vicinity. However, in planning terms it has to be concluded that any residential use of the site has been abandoned and so it is not possible to consider the development under RLP policy CC22 (Replacement Dwelling).
- 5.1.2 The site is outside the settlement boundary for Mayland as are the dwellings to the north, although those to the south are within. Policies S2 and H1 seek to direct new housing development to within established settlements or allocations identified in the development plan and so there would normally be a policy objection to such proposals. However, the site is close to the settlement boundary and within relatively easy reach of the primary school and other facilities within the village. LDP policy S8 defines Mayland as being a “larger village” which may have a limited range of public service and public transport connections. Therefore, the site can be regarded as being in a sustainable location.

5.2 Design and Impact on the Character of the Area

- 5.2.1 The application site is within the coastal zone and the northern part forms part of the Special Landscape Area of the Blackwater Estuary. Whilst there is established residential development to the north and south the site has been undeveloped for some years and supported scrub and other vegetation until this was cut back 2-3 years ago; the area to the south is also undeveloped. To the north is the seawall and recreational development associated with the foreshore. The site therefore sensitive visually and potentially from an ecological viewpoint (see below).
- 5.2.2 It is proposed that the dwelling will have a relatively small rhomboid shaped footprint of between 5.2 metres and 9.2metres deep and 11.6 metres wide. This would accommodate an integral double garage with entrance and service core. Above that at first floor level (also rhomboid in plan) would be the habitable accommodation comprising 3 bedrooms, an office, living room and kitchen/ dining area. This element would be between 9.6 metres and 13.5 metres deep and be 21 metres wide. In addition there would be an external deck skirting the north east, south west and south eastern sides of the accommodation giving overall dimensions for the first floor of 11.2 metres and 17.8 metres deep and 21.6 metres and 22.5 metres wide. This means that the first floor accommodation and deck cantilevers above the ground floor “stalk” which will support the whole structure. The roof structure comprises two low pitched elements, one of which is visually sliced along the southern elevation. The overall height would be 8 metres above the ground floor and lower than the existing 2 storey dwellings in Sea View Terrace. The plans indicate that to the south west of the dwelling will be protected by a bund 1 metre in height which will encompass a private garden area. The balance of the site is not to be developed.

5.2.3 The design of the proposed development is certainly contemporary and incorporates design features to address potential flooding issues. NPPF paragraph 55 states, amongst other things, that whilst isolated new homes in the countryside should be avoided, in special circumstances exceptions may be made including that the proposal is of exceptional quality or innovative design such that it:-

- be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
- reflect the highest standards of architecture;
- significantly enhance its immediate setting; and
- be sensitive to the defining characteristics of the local area.

5.2.4 The ground floor stalk will be overshadowed by the first floor element so it will be less visible making the building appear to float above the ground. The design and form of the first floor draws from local shoreline architectural references of boatsheds and the first floor will be clad in dark shiplap boarding (north elevation) with some exposed concrete elements with slate roofs. There would be extensive glazing on the east, west and south elevations. The ground floor will be concrete which will be specially treated to withstand immersion in water. The design includes a number of features that will make it resilient to flooding. The bund around the garden and the base of the house can be sealed with a flood gate so that the dwelling and garden are protected from lesser flood events. However, in a major flood, the ground floor (including the garage) can be sealed off with flood proof doors and the residents can resort to the living areas at first floor level which will be 0.5 metres above the level for a 1:1000 year flood.

5.2.5 The Urban Design officer has reviewed the design approach and notes that other innovative contemporary dwellings have been approved and built locally including the Salt House at St Lawrence. In her opinion the design is sensitive to the site and its surroundings and the quality of the architecture would warrant consideration as a Paragraph 55 design. It is claimed that this would be the first para 55 dwelling that would address flood resilience to the home, garden and garaging in such a holistic manner.

5.2.6 Part of the site lies within the Special Landscape Area and it is wholly within the Coastal Zone and RLP policies CC7 and CC11 seek to prevent inappropriate development that would harm the appearance or character of these areas. The site is presently open and provides a gap between the main part of Mayland and the residential outliers to the east. The proposed development is relatively small scale given the extent of the site and reflects the shoreside development. Subject to control of the setting of the building and the prevention of the spread of domestic paraphernalia the proposed design should complement the character of the area.

5.3 Flood Risk

5.3.1 As discussed, the site is within Flood Zone 3(a) and is therefore at risk from tidal flooding. The Environment Agency (EA) confirms that the site is defended against tidal flooding and that the Shoreline Management Plan policy for this area is to “hold the line” that is to maintain the defences. Accordingly, the EA does not raise an objection to this application on flood risk grounds subject to certain conditions. The original response was predicated on the proposal being a replacement of an existing

dwelling. The EA was advised that the Council did not consider that to be the case and were asked to confirm their response and this has been confirmed.

- 5.3.2 A Flood Risk Assessment (FRA) supports the application. This confirms that the garden area will be protected against 1:100 year event (3 metres AOD) and the first floor 6.50 AOD which would be 0.5 metres above the 1:1000 year level. In addition flood resilience measures would be incorporated into the construction including use of water resistant materials routing of services and other measures already mentioned. It is considered that the proposed development meets the Exceptions Test.
- 5.3.3 The EA had submitted a holding objection in respect of the original proposal to use a treatment package plant for the disposal of foul sewage. The application has amended to as it has proved possible to connect to the public foul sewer; the EA has withdrawn its objection. A condition requiring this as well as details of surface water disposal will be required.

5.4 Ecology

- 5.4.1 The site is close to the Blackwater estuary which is the subject of a variety of international and national natural conservation designations (SPA, SAC, Ramsar, SSSI). The main nature conservation interest relates to overwintering birds that resort to the mudflats and saltings. The shoreline is 80 metres from the site and Natural England has not raised an object given the existing level of human activity present in the area. However, there are concerns that additional disturbance will be caused during the construction period and they have asked that this be conditioned to avoid the overwintering season.
- 5.4.2 The site itself has been unoccupied for some time and part was included within the Nipsells Chase Scrub Local Wildlife Site. A Phase 1 Habitat Survey (Ecological Survey) has been undertaken and concludes that there are no protected species present on site. It is noted that the site has been cleared of ground vegetation (2015) but some trees remain. The report recommends that there be further planting on site and that this provides an opportunity for habitat enhancement. The Countryside officer has some concerns about the timing of the survey but welcomes the more sensitive management of the undeveloped part of the site.

5.5 Impact on Residential Amenity

- 5.5.1 The site is some distance from other dwellings in the area and will not adversely affect the amenity of those properties.

5.6 Access, Parking and Highway Safety

- 5.6.1 A new access would be formed at the northern corner of the site with the driveway sweeping around the back of the dwelling. The road is private and unsurfaced so traffic speeds are relatively low. The existing access will be closed. Parking is provided within a double garage within the ground floor element and there is space for additional vehicles. The Council's parking standards are more than met.
- 5.6.2 The application makes reference to a permissive footpath being formed through the site as well as land controlled by the applicant to the south. There is evidence to

suggest that an informal path runs through the site but this is not a designated footpath; the applicant advises that this would connect to a public footpath to the south and east.

5.7 Private Amenity Space and Landscaping

- 5.7.1 The site extends to 0.8 hectare, however the plans submitted indicate that the formal garden area will be located to the south west of the house within a clay bund. This area more than meets the Council's standard for private amenity space. An arboricultural report has been submitted with the application which confirms that no trees need to be removed in order to facilitate the construction of the dwelling. Measures are suggested to protect existing trees during the construction works. Apart from the house and formal garden there are no proposals to develop the balance of the site which is to be left in a semi wild state. Given the contribution the site presently makes to the local landscape and setting it will provide for this exceptional proposal, it is important that the site is managed sensitively and that opportunities are taken to provide enhanced habitats for wildlife. Furthermore, as the residential curtilage covers the whole site it would be appropriate to require a landscaping and management plan as well as remove residential permitted development rights for the dwelling and the site.

6. ANY RELEVANT SITE HISTORY

No records identified.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish Council

Name of Parish / Town Council	Comment	Officer Response
Mayland Parish Council	No objection – planning officers have taken no account of the public footpath crossing the site	There is no defined public footpath crossing the site

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
ECC Highways Dept	Sea View Parade is a private road so no comment.	Noted
Natural England	No objection, subject to mitigation measures to mitigate disturbance to over-wintering birds	Condition suggested

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Environment Agency	Holding objection re: disposal of foul sewerage. (Subsequently withdrawn) Site is within Flood Zone 3 (a) – no objection as the site is currently defended. Exceptions and sequential tests needed. Finished first floor levels would provide safe refuge.	See report

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Community Safety Officer	If to be approved need evacuation plan	See report
Countryside Officer	Forms part of Local Wildlife Site. Despite statements regarding past maintenance, evidence suggests that site only cleared in 2015 which has affected wildlife value. Walkover undertaken during very dry summer period so conclusions on reptiles not necessarily correct. Suggest condition to secure habitat enhancements on undeveloped part of site.	See report
Environmental Health	No objection subject to conditions	See report
Urban Design	Consider that the design meets the exception to general policy outlined in NPPF para 55. Design is innovative and responsive to flood resilience, integration within sensitive landscape and reference to local characteristics.	See report
Forestry Officer	The land that the proposed dwelling is to be built on, is subject of a current TPO number 8/91.	

Name of Internal Consultee	Comment	Officer Response
	<p>The land was cleared of all but the few remaining trees prior to the current application being submitted, therefore there are very few concerns regarding tree damage during development. The Arb report by Andrew Day consultancy (ref: 01312) provides for adequate protection for the few remaining trees.</p> <p>If this application is to be approved, a condition requiring full detail of a landscaping scheme to be approved, must be applied and the scheme should aim to replace a suitable number and species of trees.</p>	

7.4 Representations received from Interested Parties

7.4.1 Letters were received **in support** of the application from the following and the reasons for support are summarised as set out in the table below:

7.4.2

Mr K Paton: The Black Barn, Nipsells Farm, Nipsells Chase Mayland
Miss Sue White: The Lodge, Nipsells Farm, Nipsells Chase Mayland
Miss Anne-Marie Pharoah: Wayback Farm, St Stephens Road, Cold Norton
Miss Sonia Jardine: 1 Elm Avenue, Heybridge, Maldon,
Kay and Eddie Philips: 5&6 Sea View Parade, Mayland

Supporting Comment	Officer Response
This is for a flood proof house in a flood zone.	See report
Design is innovative	See report
Site previously occupied by holiday homes so is previously developed land.	Previous residential uses abandoned

8. **PROPOSED CONDITIONS**

1. The development hereby permitted shall begin no later than three years from the date of this decision.
REASON: To comply with Section 91(1) of The Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development shall be carried out in accordance with the following approved plans and documents: - Drawing Nos 188-200-001B, 188-200-002A, 188-200-004A, 188-200-005A, 188-200-006A, 188-200-100E, 188-200-101E, 188-200-102C, 188-200-110D, 188-200-111D, 188-200-112D & 188-200-113D and application form.
REASON: In order to ensure that the development is carried out in accordance with the approved details and in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan and emerging policy D1 of the Submitted Local Development Plan.
3. Prior to the construction of the dwelling hereby approved details and samples of the materials to be used in the construction of the external surfaces of the dwelling shall have first been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
REASON: In order to ensure that the development is carried out in accordance with the approved details and in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan and emerging policy D1 of the Submitted Local Development Plan.
4. No development shall commence until scale has been submitted to show all new window frames, external doors and door frames including sections through the head, jamb, cill and glazing bars. The details shall be submitted to and approved in writing by local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
REASON: In order to ensure that the development is carried out in accordance with the approved details and in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan and emerging policy D1 of the Submitted Local Development Plan.
5. Construction works shall only take place outside the sensitive bird overwintering period (1st October to 31st March inclusive).
REASON: To minimise adverse environmental impacts on the designated sites, by minimising the risk of disturbance to SPA birds, thereby ensuring compliance with the Habitats Regulations (as amended) and policies CC1 and CC2 of the Maldon District Replacement Local Plan.
6. No development shall commence until details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers have been submitted to and approved in writing by the local planning authority. The screening as approved shall be constructed prior to the first use/occupation of the development to which it relates and be retained as such thereafter.
REASON: To ensure that the details of development within this sensitive estuary location area acceptable and comply with the requirements of policies BE1, CC7 and CC11 of the Maldon District Replacement Local Plan.
7. No development shall take place until full details of the provision and subsequent retention of both hard and soft landscape works on the site have

been submitted to and approved in writing by the local planning authority. These details shall include:

- (i) Details of proposed schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers/densities.
- (ii) Details of the planting scheme implementation programme, including ground protection and preparation, weed clearance, stock sizes, seeding rates, planting methods, mulching, plant protection, staking and/or other support.
- (iii) Details of the aftercare and maintenance programme.
- (iv) The planting scheme and maintenance regime shall reflect the principles outlined in Section 5.2 and Annexe 5 of the Extended Phase 1 Habitat Survey (Preliminary Ecological Assessment) dated August 2016.

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development unless otherwise agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

Hard Landscape works.

- (i) Details of walls with brick types, construction design and dimensions.
- (ii) Details of paved surfacing, with materials finishing and edgings.

The hard landscape works shall be carried out as approved prior to the first use/ occupation of the development hereby approved and retained and maintained as such thereafter.

REASON: To ensure that the details of the development provide the appropriate setting for the development within the local landscape and provide opportunities for habitat enhancement in accordance with the requirements of policies CC3, CC7, CC11 and BE1 of the Maldon District Replacement Local Plan.

8. All trees shown as being retained on Appendix 5 (Tree Protection Plan) of the Arboricultural Report dated 15th August 2016 shall be retained. No development shall commence until fencing and tree protection measures to protect the trees and vegetation to be retained has been implemented in accordance with the details set out in the Method Statement for Tree Protection Measures as set out in the Arboricultural Report. The protective fencing shall be erected before the commencement of any clearing, demolition and building operations and shall be retained until all equipment, machinery and surplus materials have been removed from the site.

The protective fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced protection zone nothing shall be stored or placed, no fires lit, no vehicle shall gain access, ground levels shall not be altered, no excavation shall be made and no structure shall be erected. If within five years from the completion of the development a retained shrub or hedge is removed, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or

defective, a replacement shrub or hedge shall be planted within the site of such species and size and shall be planted at such time, as specified in writing by the local planning authority.

REASON: To protect existing trees and vegetation on the site in accordance with policy BE1 of the Maldon District Replacement Local Plan.

9. Finished floor levels for the ground floor shall be at least 3.0 metres AOD and for the first floor no less than 6.5 metres AOD.

REASON: To provide a safe refuge in the event of a major flooding incident in accordance with policy D5 of the Maldon District Local Development Plan.

10. Prior to any development details of any ground raising including levels as compared to the surrounding land shall be submitted to and approved by the local planning authority and the development carried out in accordance with the details so agreed.

REASON: To ensure that the details of the proposal are acceptable and accord with policy BE1 of the Maldon District Replacement Local Plan.

11. Prior to the commencement of development details of the proposed connection to the public foul sewer shall be submitted to and approved by the local planning authority and the scheme shall be implemented in accordance with the details so approved.

REASON: To ensure that the scheme is acceptable and prevent potential pollution as required by policy CON5 of the Maldon District Replacement Local Plan.

12. Prior to the commencement of development details of the collection and disposal of surface water drainage shall be submitted to and approved by the local planning authority and the scheme implemented in accordance with the details so approved.

REASON: To ensure that the details of the proposal are acceptable and accord with policy BE1 of the Maldon District Replacement Local Plan.

13. Prior to the commencement of development details of the proposed vehicular access and the means of stopping up the existing vehicular access shall be submitted to and approved by the local planning authority and the scheme shall be implemented in accordance with the details so approved. The existing access shall be stopped up and cease to be used within 3 months of the new becoming available.

REASON: In the interests of highway safety and the requirements of policies BE1 and T2 of the Maldon District Replacement Local Plan.

14. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order)

I. no garages, extensions, separate buildings, other structures or swimming pools shall be erected within the site without planning permission having been obtained from the local planning authority.

II. no dormer window or other form of addition or opening shall be constructed in the roof or gable walls of the building.

III. no wall, fence, gate or other means of enclosure shall be erected within or around the site.

without the prior grant of planning permission by the local planning authority.

REASON: The development has been approved as an exception to general planning policy because of its innovative and outstanding design within a special landscape area. Inappropriate domestic additions could diminish the landscape quality and compromise the setting and architectural merit of the

building contrary to the requirements of policies BE1, CC7, CC11 of the Maldon District Replacement Local Plan.

15. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for but not necessarily be limited to the following:

- Designated areas for the parking of vehicles of site operatives and visit
- Designated areas for the loading and unloading of plant and materials
- Designated areas for the storage of plant and materials used in constructing the development
- The erection and maintenance of any security hoarding including decorative displays and facilities for public viewing, where appropriate
- Wheel washing facilities and protocol for their use
- Measures to control the emission of dust, noise and dirt during construction
- A scheme for recycling/disposing of waste resulting from demolition and construction works.

REASON: To protect the amenities of local residents and the area generally in accordance with policy BE1 of the Maldon District Replacement Local Plan.

16. Prior to the commencement of development details of flood resilience measures to be incorporated into the building, including but not necessarily limited to the measures set out in the Maylandsea Flood Risk Assessment dated December 2016 as well as a Flood Evacuation Plan shall be submitted to and approved by the local planning authority and the development shall be implemented in accordance with the measures so approved.

REASON: To mitigate against the risks of flooding in accordance with policy D5 of the Maldon District Local Development Plan.



**REPORT of
INTERIM HEAD OF PLANNING SERVICES**
to
SOUTH EASTERN AREA PLANNING COMMITTEE
13 MARCH 2017

Application Number	FUL/MAL/17/00027
Location	Land Adjacent to Three Ways, Batts Road, Steeple
Proposal	Proposed residential development comprising 7 No two bedroom dwellings
Applicant	Mr P Ellis
Agent	Form Architecture Ltd
Target Decision Date	09/03/17
Case Officer	Nigel Hebden Tel 01621 875741
Parish	Steeple
Reason for Referral to the Committee / Council	Member Call In

1. RECOMMENDATION


REFUSE for the reasons as detailed in Section 8 of this report.

2. SITE MAP

Please see overleaf.

Land Adjacent Three Ways, Batts Road, Steeple
FUL/MAL/17/00027



 <p>Copyright For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p>	Scale:	1:1,250
	Organisation:	Maldon District Council
	Department:	Department
	Comments:	SE Committee 17/00027/FUL
	Date:	02/03/2017
www.maldon.gov.uk	MSA Number:	100018588

3. SUMMARY

3.1 Application Site

- 3.1.1 The site of 0.14 ha lies on the west side of Batts Road close to its junction with The Street. The site is presently occupied by an unlisted former chapel that has consent for conversion into a dwelling. It would appear that conversion has started but may not be complete. The ground level to the south has been raised with road scrapings with two sheds and a container placed on the land. To the north abutting the site there is a graveyard that is still maintained and active, in that internments still occur, and which has an access from Batts Road. To the south are semi-detached dwellings set in generous plots fronting Batts Road. To the west are the grounds of properties fronting The Street. On the opposite side of Batts Road is open agricultural land. The site is bounded by a narrow footpath and hedgerow.

3.2 Proposal

- 3.2.1 It is proposed to retain the chapel and develop one terrace of 3 two storey dwellings to the south of the chapel and a terrace of 4 dwellings to the north. The plans indicate that each dwelling would be 2 bedroom three person units and a single parking space would be provided in front with access directly from Batts Road.

3.3 Conclusion

- 3.3.1 Issues relating to the development of the disused graveyard are considered at the start of the assessment. The proposed development is within the settlement boundary for the village and so the principle of the development is acceptable. However, the form of the development located either side of the unlisted chapel would diminish the significance of the non-listed local heritage asset and the cramped form of development right on the edge of the village would adversely affect the character of the area and the landscape setting of the village.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2012 including paragraphs:

- **Para 7:** Sustainable development includes an environmental role which requires the use of natural resources prudently and that waste and pollution is minimised.
- **Para 17:** Core principles – effective use of land that has been previously developed (brownfield land) provided not of high environmental quality. The role and character of different areas should be taken into account including the intrinsic character and beauty of the countryside.
- **Para 47:** There needs to be a significant boost to the supply of housing to provide high quality homes. Councils should demonstrate that they have a 5 year supply of deliverable housing land.
- **Para 56:** Good design is a key aspect of sustainable development.

- **Para 111:** Encourage effective use of land that has been previously developed provided that it is not of high environmental value.
- **Para 109:** Planning system should contribute to and enhance the natural and local environment by protecting and enhancing local landscapes
- **Para 135:** Balanced judgement need to be made where development directly or indirectly affect non-designated heritage assets.

4.2 Maldon District Replacement Local Plan 2005 (RLP) – Saved Policies:

S1	Development boundaries and new development
H1	Location of new housing
H6	Housing density
CC6	Landscape protection
BE1	Design of new development
T8	Vehicle parking standards

4.3 Maldon District Local Development Plan (LDP) submitted to the Secretary of State for Examination-in-Public on 25 April 2014:

S1	Sustainable development
S8	Settlement boundaries and the countryside
D1	Design quality and the built environment
H2	Housing mix
D3	Heritage assets

5. MAIN CONSIDERATIONS

5.1 Background

- 5.1.1 The application has, understandably, raised concerns within the local community about the development of a disused graveyard and it is perhaps helpful to consider the planning and procedural context at the outset. The application site comprises the former chapel which has been converted into a dwelling and land to the north and south which now comprises its curtilage. Further to the north adjacent to the junction of The Street and Batts Road is an active graveyard where more recent burials have taken place and indeed further internments may take place. This site is owned by the applicant but is not included within the application site.
- 5.1.2 It will be noted that in 2010, The South Eastern Area Planning Committee approved a proposal to convert and adapt the then vacant chapel into a dwelling. As part of the scheme the area to the north and south of the chapel which is a disused graveyard would be made over to garden. The committee report noted that there were some gravestones within the proposed garden area but they had fallen and were not necessarily in the correct location. The applicant undertook to place them around the boundary of the site and make available a plan of the graves to any visitors. This was not included as a planning condition as it was understood to be a requirement under the Burials Act.
- 5.1.3 Turning to the current application there is no prohibition in planning law to prevent the granting of planning permission to develop land that has been used as a graveyard.

However, the grant of planning permission does not overrule or negate any other legislative requirement there may be in respect of this proposal. The Environmental Health Service advises that the following legislation would apply. The developer would need to comply with the requirements of the Disused Burial Grounds (Amendment) Act 1981. The legislation states that where interments have taken place on the land within the last 50 years and an objection has been raised by any personal representative or relative of any deceased person buried within the site, the land shall not be built upon. The applicant would first need to publicize their intentions in a specified manner. If no objections are forthcoming then other requirements of the act would need to be complied with.

- 5.1.4 It would appear that the land was sold to the applicant by the Evangelical Fellowship of Congregational Churches Trust and it is stated that certain covenants were placed on the property preventing its future development. The Committee will be aware the requirements of property covenants are essentially private matters between vendors and purchasers of land and are not material planning considerations. The grant or otherwise of a planning permission has no effect on the enforcement of such covenants.

5.2 Principle of Development

- 5.2.1 The application site lies just within the settlement boundary (which runs along Batts Road at this point) for the village and so would comply with RLP policies S1 and H1 and S1 and S8 of the LDP. Policy S8 identifies Steeple as being a “smaller village” which means that it has few or no public services including public transport. Nevertheless the site would be regarded as being within a sustainable location. Furthermore, the proposal is for seven 2 bedroom houses and the Council’s Strategic Housing Market Assessment (SHMA) identifies that there is a shortage of smaller units including 2 bedroom accommodation. This proposal would help address that shortfall in accordance with LDP policy H2. The principle of housing development on this site is therefore acceptable.

5.3 Design and Impact on the Character of the Area

- 5.3.1 The proposal is split into two terraces of 2 storey houses with gable ends facing front to match the alignment and building line of the chapel. The terraces are slightly stepped to provide visual interest and break up what would otherwise be a flat and monotonous façade. The site slopes from south to north and the roof lines follow this; the design is simple and contemporary with the buildings finished in brick and tile.
- 5.3.2 The chapel is not listed but is in a prominent location providing a local landmark at one of the entrances to the village. It has been relatively unaltered with only minor additions to the rear and its original character and appearance is largely intact; it is also of local historical interest in the context of the development of the village. As such it can be regarded as a non-designated heritage asset which can afford some degree of protection in respect of the impact of development on its significance.
- 5.3.3 Currently the chapel sits roughly centrally within the old graveyard and the proposed terraces would be placed either side on the same building line. The terraces would be located 4 metres from each side of the front part of the chapel; however the rear part

of the chapel is 2 metres wider each side so when viewed from the front the apparent gap, albeit towards the back, is reduced to 2 metres. Furthermore, length and therefore bulk of the two terraces effectively sandwich the chapel and overwhelm it visually. In addition, views of the fenestration along the side elevations would be largely obscured when viewed from the road. As such it is considered that the proposal would adversely affect the setting of the chapel and so diminish its significance.

- 5.3.4 The site forms part of the edge of the village which gives way to open agricultural fields to the east. The existing dwellings along Batts Road are demi-detached set in generous plots with substantial gaps between pairs. There is no terraced development within the immediate vicinity and so it would be out of character with the local built form. In addition this is the edge of the village and the form of the development would be urban in nature and jar with the rural setting of the village contrary to RLP policies BE1 and CC6. In addition the car parking arrangements would result in parked cars dominating the frontage of this rural area. It is accepted that cars are parked to the front of the existing dwellings in Batts Road, however the concentration is less.

5.4 Impact on Residential Amenity

- 5.4.1 Local residents have raised concerns about overlooking from the proposed dwellings. The only windows from the side elevations of the terraces serve bathrooms and obscure glazing could be secured by condition. There would be windows in the western elevation serving the first floor bedrooms. The closest dwelling is “Three Ways” which would be 18 metres from the rear elevation of the northernmost dwelling. There is a habitable window in the ground floor of Three Ways which faces eastward. At present there are trees and hedging along the boundary which would provide screening however these could be removed to provide light to the proposed garden. Other dwellings are sufficient distance away to be not affected.

5.5 Access, Parking and Highway Safety

- 5.5.1 It is proposed that each dwelling would have a single parking space to the front accessed directly from the road and this would be sufficient to meet the Council’s adopted standard for 2 bed dwellings. The balance of the land in the front is shown as garden but could be used as additional parking. The nearest access would be 30 metres from the junction with The Street and the highway authority has not raised an objection to this arrangement. Currently the parking arrangements for the chapel are to the south in the garden area. The plan indicates two spaces to the front of the church although only the existing pedestrian access is shown on plan. As it stands there is no vehicular access to these spaces indicated. The provision of these spaces and loss of the remaining hedging would further impact on the setting of the chapel.

5.6 Private Amenity Space and Landscaping

- 5.6.1 Since 2010 the applicant has purchased an additional strip of land to the rear to provide amenity space for the existing converted chapel and the proposed dwellings. The private amenity spaces provided for the new dwellings range from 87 sq metres down to 63 sq metres although in the case of the northern dwelling the usable space is nearer 52 sq metres. The chapel which is 2 bedroomed would have 88 sq metres. The

Essex Design Guide accepts that in the case of smaller dwellings such as these the space standard can be lowered from the usual 100 sq metres requirement however in the case of the two units at the northern end the gardens are small or of an contrived shape.

- 5.6.2 The existing hedgerow would be removed and the frontage would be largely open in order to accommodate the access points. The plan indicates that the hedge would be retained in front of the chapel but in reality it would need to be cut back to form an access to the car parking spaces.

5.7 Other Material Considerations

- 5.7.1 A local resident queried the ownership of the site. The Land Registry records have been checked and indicate that the freehold of the land is held by the applicant. The application site plan indicates a narrow corridor of land extending northwards alongside the western boundary. The land is currently overgrown and serves no purpose as part of the submitted scheme. The applicant's agent has indicated that this area will be omitted from the application site.

6. ANY RELEVANT SITE HISTORY

- **APPLICATION NO FUL/MAL/10/00693:** Proposed change of use from church to residential dwelling including reconstruction of existing rear roof to form first floor accommodation: Approved 07/10/10.
- **ENF/16/00261:** Non-compliance with condition. Pending.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Steeple Parish Council	Object: 1. There is strong local feeling against this proposal to develop a graveyard either side of a Victorian chapel. There are covenants protecting the graveyard from development. 2. The street scene would be seriously degraded and the houses would be too close to the chapel which although not listed is of local importance. 3. The design of the dwellings in inferior to nearby houses. 4. Would	

Name of Parish / Town Council	Comment	Officer Response
	result in 14 cars backing out onto Batts Rd near a busy junction- would be unsafe.	

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
ECC Highways Department	No objection subject to conditions.	Noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	Whilst building on disused graveyard is not prohibited there are certain procedures that need to be gone through before development can take place. Service does not raise an objection but is mindful that will cause distress. If approved suggest recommendations.	Further details provided within report.
Conservation Officer	The building is an attractive example of a late 19 th century non-conformist chapel with school room at the rear. It has been sensitively converted into a dwelling and whilst it is not listed it can be regarded as a “Non-Designated Heritage Asset”. Whilst to some extent the form, materials and positioning of the houses take a cue from the chapel their proximity will obscure the side elevations of an historic landmark in the village.	See report

7.4 Representations received from Interested Parties

7.4.1 Letters were received **objecting** to the application from the following and the reasons for objection are summarised as set out in the table below:

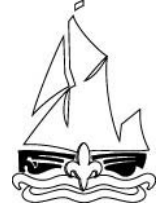
Mr Paul Bedwell: Three Ways, The Street, Steeple
 Mrs Alison Bedwell: Three Ways, The Street, Steeple
 Miss Viv Rogers: 1 Garden Fields, Steeple
 Mr T Lucas Casa Mia, The Street, Steeple
 Mr David Griffin: 6 Garden Fields, Steeple
 Stephen Smith: Burghley Brook Farm, London Road, Rivenall, Witham
 Mr Alan Taylor: Hipseys Cottage, The Street, Steeple
 Mr Matt Belverstone: Meadowcroft, 5 Batts Road, Steeple
 Mrs Denise Allington: Chance Cottage, The Street, Steeple
 Mr Malcomb Davey-Barnes: The Lilacs, The Street, Steeple
 Mrs Kay Davy: Ridgeway, Maldon road, Steeple
 Mr Kenneth Raithby: Brook House, The Street, Steeple
 Mr Peter Hipsey: 121 Bramley Lane, Mayland
 Ms Pothercary, Wickham Weld (solicitors) 70 St Georges Square, London SW13RD (on behalf of Evangelical Fellowship of Congregational Churches Trust EFCC)
 Mrs Georgina Lamb: 4 Batts Road, Steeple
 John & Christine Taylor: Casumaro, The Street, Steeple
 Dr Michael Gray: 14 Jersey Road, Ferring, Worthing
 Mrs Valerie Lowe: 37 Park Grove, Knaresborough
 Petition with 60 signatures- object

Objection Comment	Officer Response
Will have adverse impact on local historic building	Considered in report
Land is an old burial ground with bodies remaining	Not a planning issue as explained in report
Gravestones have been removed	Not a planning matter
Is too close to my property and will overlook it	See report
Local school and doctors cannot cope with extra people	Site is within settlement boundary
Insufficient parking for narrow road.	Accords with adopted standard
7 new houses on this site is excessive and would overwhelm chapel	Considered in report
Queries land ownership	Not a material planning consideration
Is new housing needed here?	SHMA identifies shortage of small homes
Would be extra traffic on local roads and at a junction that is already busy.	No objection from ECC Highways
Steeple has poor broadband and no local employment	Noted
I have a relative buried in the graveyard and the proposal is insensitive.	Not a material planning consideration – other acts address this.
Lorries will be using Batts Road to transport nuclear waste	Noted - No objection from ECC Highways
Site is subject to flooding	No objection from consultee

Objection Comment	Officer Response
Strongly object to disturbance of relatives buried on the site	Not a material planning consideration – other acts address this.
Site was sold with a covenant to prevent the graveyard being developed.	Not a material planning consideration
Development would be in breach of Disused Burials Act 1884 which only allows development of church buildings.	Noted
If graves disturbed would be breach of Burials Act 1857 as graves would be disturbed.	Noted
Applicant has been approached about breaches of covenants and other matters relating to treatment of graves.	Noted
Concerned about power cables that cross site	Subject to wayleave. Statutory undertaker will re-route if necessary
Velux windows in rear will overlook property	No velux windows shown on plan
Consider that existing conversion of chapel has not been carried in accordance with permission.	Subject to enforcement investigation

8. PROPOSED REASON FOR REFUSAL

1. The proposal involves the erection of two terraces of dwellings either side of a former chapel which is considered to be a Non Designated Heritage Asset. The proposed development by reason of its design, positioning and massing would result in a cramped form of development that would adversely affect the setting of a Non-Designated Heritage asset by visually dominating it. In addition the design, position and bulk of the development together with the loss of the existing hedgerow and replacement with car parking would adversely affect the visual appearance and character of the rural setting of the village and the amenities of local residents. As such the proposal would be contrary to the requirements of policies BE1 and CC6 of the Maldon District replacement Local Plan and policies D1 and D3 of the Maldon District local Development Plan and paragraph 135 of the National Planning Policy Framework.



**REPORT of
INTERIM HEAD OF PLANNING SERVICES**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
13 FEBRUARY 2017**

OTHER AREA PLANNING AND RELATED MATTERS

ITEM 1 APPEALS LODGED

ITEM 2 APPEAL DECISIONS

ITEM 1 APPEALS LODGED

There were none.

ITEM 2 APPEAL DECISIONS

Notification has been received from the Planning Inspectorate of the follow appeal decisions.

LDP/MAL/16/00263 (Appeal Ref: APP/X1545/X/16/3151073)

Proposal: Proposed mobile home to be used as additional accommodation to the existing dwelling

Address: Lermoos - 32 Wembley Avenue - Mayland

APPEAL ALLOWED & FULL COSTS AGAINST THE COUNCIL

ALLOWED – 9 February 2017

DECISION LEVEL: Committee (as per Officer recommendation to refuse)

FUL/MAL/16/00301 (Appeal Ref: APP/X1545/W/16/3156862)

Proposal: Revised orientation of farm worker's dwelling and use of roof void to provide bedroom accommodation incorporating rear dormer (Revision of FUL/MAL/10/00702)

Address: Manor Farm, Old Heath Road, Southminster, Essex, CM0 7BW

APPEAL DISMISSED – 14 February 2017

DECISION LEVEL: Delegated

OUT/MAL/16/00120 (Appeal Ref: APP/X1545/W/16/3160991)

Proposal: Outline planning permission for proposed demolition of No.58 Maldon Road and the erection of 6 No.residential units. with ancillary works including new vehicular and pedestrian access off Maldon Road and Estate Road (Resubmission)

Address: Land To The Rear Of 60A Maldon Road - Burnham On Crouch

APPEAL ALLOWED – 16 February 2017

DECISION LEVEL: Committee (as per Officer recommendation)

HOUSE/MAL/16/00259 (Appeal Ref: APP/X1545/D/16/3162369)

Proposal: 6ft fence around garden replacing existing old fence

Address: 48 Western Road Burnham-On-Crouch

APPEAL ALLOWED – 22 February 2017

DECISION LEVEL: Delegated

OUT/MAL/16/00196 (Appeal Ref: APP/X1545/W/16/3157183)

Proposal: Development of 3 new homes

Address: Land North Of Hillcrest House - Stoney Hills - Burnham On Crouch

APPEAL ALLOWED – 27 February 2017

DECISION LEVEL: Delegated

By virtue of paragraph(s) 6 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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